



## **YELM PLANNING COMMISSION AGENDA**

**MONDAY, OCTOBER 16<sup>TH</sup>, 2023 4:00PM**

THIS MEETING CAN BE ATTENDED IN PERSON OR VIA ZOOM.

**In person:** Yelm City Hall, 106 2<sup>nd</sup> Street SE, Yelm, WA 98597

**Via Zoom:** [Click here to join Zoom Meeting](#)

Or Dial in: 253-215-8782 Meeting ID: 870-3193-3305 Passcode: 564018

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### **1. CALL TO ORDER**

### **2. ROLL CALL**

Chair, Carlos Perez

Vice Chair, Robert Howard

John Thomson

Richard Lomsdale

Anne Wahrmund

Jerry Fugich

John Graver

### **3. PLEDGE OF ALLEGIANCE**

### **4. APPROVAL OF MINUTES**

- a. Minutes from meetings held on August 21, 2023 are attached.

### **5. CITY STAFF COMMUNICATIONS**

- a. Department update.

### **6. PUBLIC COMMENTS**

- a. The public comment portion of the agenda is an opportunity for the public to address the Commission regarding matters that are not on the agenda. Comments are limited to three minutes and five speakers. Comment on matters listed on the agenda are welcomed.

### **7. UNFINISHED BUSINESS**

None.

### **8. NEW BUSINESS**

None.

### **9. PUBLIC HEARINGS**

- a. Rezone request from Commercial 1 to Moderate-Density Residential (R-6) for Thurston County parcel 52920000003, located at 15106 Carter Loop SE

- b. Modifications to Yelm Municipal Code, including the adoption of a Flood Damage Prevention Ordinance and modifications to Chapter 18.11 and 18.21 YMC to remove provisions covered by the new ordinance

## **10. SUBCOMMITTEE REPORTS**

## **11. ADJOURNMENT**

### **MEETING INFORMATION**

All regular meetings are recorded and may be viewed at [www.yelmwa.gov](http://www.yelmwa.gov).

It is the City of Yelm's policy to provide reasonable accommodations for people with disabilities. If you require reasonable accommodations to participate at a meeting, please contact the City Clerk's office at 360-458-8816 at least five (5) working days prior to meeting. Information on the Americans with Disabilities Act and the Title VI Statement is available at [https://www.yelmwa.gov/connect/departments/human\\_resources/index.php](https://www.yelmwa.gov/connect/departments/human_resources/index.php).

### **DISCLAIMER**

**AGENDA ITEMS MAY BE TAKEN OUT OF ORDER.  
THIS AGENDA MAY BE SUBJECT TO CHANGE UP TO 24 HOURS PRIOR TO  
MEETING. PLEASE SEE [WWW.YELMWA.GOV](http://WWW.YELMWA.GOV) FOR CURRENT AGENDA.**

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Next Planning Commission Meeting  
**Monday, November 20<sup>th</sup>, 2023 at 4:00 PM**

YELM PLANNING COMMISSION MINUTES  
AUGUST 21, 2023 – 4:00 PM  
YELM CITY HALL

Carlos Perez called the meeting to order at 4:00 pm.

**Members present:** Carlos Perez, John Graver, Richard Lomdsale, Anne Wahrmund, Jerry Fugich, and John Thomson.

**Members Absent:** Bob Howard (excused)

**Staff:** Cody Colt, Gary Cooper, Maryam Moeinian, and Hazel Hooker.

**Approval of Minutes:**

MOTION BY JOHN THOMSON, SECONDED BY JOHN GRAVER TO APPROVE THE JUNE 20, 2023 MINUTES AS AMENDED.

**City Staff Communications:** Gary Cooper, Planning and Building Manager, gave an update on staff as well as an update on the status of the comprehensive plan.

**Public Comment:**

None.

**New Business:**

Gary Cooper, Planning and Building Manager, makes a request for Glenn Schorno's property to be rezoned from R4 to R6 when the new annexation takes place.

AFTER DISCUSSION AND AMENDMENT THE FOLLOWING WAS APPROVED, INCLUDE BETTY J ALEXANDER PROPERTY AND CYNTHIA LYNN PROPERTY IN THE REZONE OF GLENN SCHORNO'S PROPERTY. MOTION BY JERRY FUGICH AND SECONDED BY JOHN GRAVER. ALL WERE IN FAVOR.

**Public Hearing**

Carlos Perez opened the public hearing at 4:16 pm.

Robert Sternoff spoke on the proposed text amendment to allow 55+ living community on his property.

Staff added comment that the proposed text amendment was noticed in the newspaper, on our website and in public places.

Carlos Perez closed the public hearing at 4:22 pm.

AFTER DISCUSSION, MOTION BY JERRY FUGICH AND SECONDED BY JOHN THOMSON TO ADD ITEM I UNDER SECTION 18.39.030 TO ALLOW SENIOR 55 YEARS AND OLDER RENTAL HOUSING COMMUNITIES AND CHANGE THE OLD ITEM I TO ITEM J. ALL WERE IN FAVOR.

**Subcommittee Reports:**

Arts Commission: John Graver gave an update the on surveys.

Parks Committee: Anne Wahrmond gave updates on the Prairie Trail Extension.

**Adjourn:** MOTION BY JERRY FUGICH, SECONDED BY JOHN GRAVER TO ADJOURN THE MEETING. ALL WERE IN FAVOR. MEETING WAS ADJOURNED AT 4:32 PM.

Respectfully submitted,  
Hazel Hooker, Public Services Administrative Assistant



# City of Yelm

Fee	_____
Date Received	_____
By	_____
File No.	_____

**Community Development  
Department  
APPLICATION FOR  
CHANGE IN ZONING**

Fee: \$1000.00  
(In addition, any professional service charges  
per Resolution #358)

A change in zoning is a request to amend the map or text of the city zoning ordinance. A change will only be approved if it is consistent with the City's comprehensive plan. A change is usually made to provide for different land uses, but a request may also be made to change zoning standards or requirements. Before a rezone is granted, a staff report will be prepared. The Planning Commission will hold a public hearing and will present a recommendation to the City Council. The Council will make the final decision.

**NAME OF PROJECT** Carter Loop Parcel Rezone

**APPLICANT** CES NW, Inc  
**Mailing Address** 429 29th Street NE - Suite D  
**City, State and Zip** Puyallup, WA 98372  
**Telephone** 253.848.4282 **EMAIL** cdeaver@cesnwinc.com  
trichards@cesnwinc.com

**OWNER** Projects West  
**Mailing Address** P.O. Box 1368  
**City, State and Zip** Graham, WA 98338  
**Telephone** \_\_\_\_\_ **EMAIL** pwihouse@aol.com

**ENGINEER/ARCHITECT/OTHER** CES NW, Inc  
**Mailing Address** 429 29th Street NE - Suite D  
**City, State and Zip** Puyallup, WA 98372  
**Telephone** 253.848.4282 **EMAIL** cdeaver@cesnwinc.com  
trichards@cesnwinc.com

**SUMMARY OF REQUEST** Request a rezone from Commercial 1 to  
Residential 4 or Residential 6. All adjacent zoning is residential.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PROPERTY DESCRIPTION**  
**General location** Site is located east of Highway 507 in the Hawks Landing  
plat.  
**Site Address** 15106 Carter Loop Rd **Land Area (acres)** .92 acres  
**Section** 25 **Township** 17 **Range** 1  
**Assessor's Tax Parcel Number** 52920000003  
**Full legal description of subject property (attach separate sheet if necessary)**  
Section 25 Township 17 Range 1E Plat HAWKS LANDING TR D 3511261  
FUTURE COMMERCIAL TRACT  
\_\_\_\_\_  
\_\_\_\_\_

**PLEASE ANSWER THE FOLLOWING QUESTIONS  
ATTACH EXTRA PAGES IF NECESSARY**

1. Does the proposed rezone conform with the Yelm Comprehensive Plan?  
Explain: The site is a single parcel zoned commercial in an area where all adjacent land use is residential. The rezone would a variety of housing types for single family residential including townhomes and duplexes. The limited shape and location of the parcel are incongruent with commercial use.
2. Why is a change in zoning appropriate? (Note: Lack of neighborhood objection alone is not a sufficient reason) A rezone is appropriate for this area. Adjacent zoning is residential and subject parcel is Commercial 1. C1 allows residential as mixed use with apartments. Apartment living and commercial use does not fit well in a neighborhood of single family homes and limited parcel size and shape.
3. How would the proposed zone change be in the public interest? The change in zone would be in the public interest because it removes the commercial aspect from the area and creates more residential housing options.
4. Explain how the site is suited to the proposed zoning. (Topography, access, utilities, etc) The site is generally flat and is located in an established neighborhood where City utilities are available. The neighborhood currently accesses from SR 507 and Carter Street SE.
5. Describe the relationship of this site to neighboring land uses. The parcel is zoned commercial while adjacent parcels are zoned residential. The use under commercial would not utilize the parcel efficiently or to the benefit of the neighborhood.
6. Describe means by which any conflicts with neighboring property could be reduced or avoided. Conflicts as a result of a rezone are not expected. If approved, the proposed construction of dwelling units such as townhomes or duplexes would fit the neighborhood dynamic better than the current "mixed use" requirement.

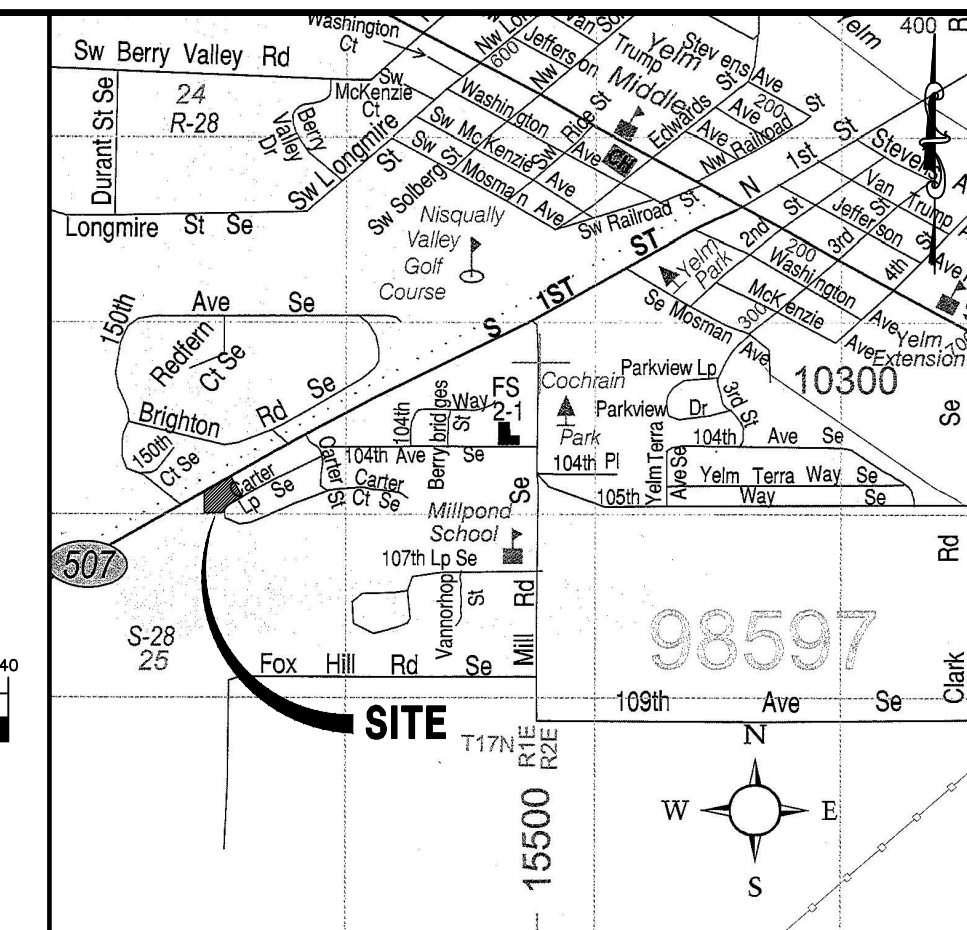
**ATTACHMENTS:**

- 5 copies Environmental Checklist (including \$150.00 fee) (if applicable).
- Mail labels (8 ½ x11 sheet) of Owners of Property within 300 feet (include Assessor's Tax Parcel Numbers and map.)
- Map not larger than 11" x 17" accurately showing:
  1. Site proposed for rezone
  2. Dimensions of boundaries of rezone
  3. Acreage of proposed rezone
  4. Current and proposed zoning of site and adjacent property
  5. Location of site relative to prominent features (streets, creeks, etc.)
- Proposed zoning ordinance language changes, if any.

I affirm that all answers, statements and information above and submitted with this application are complete and accurate to the best of my knowledge. I also affirm that I am the owner of the subject site or am duly authorized by the owner to act with respect to this application. Further, I grant permission from the owner to any and all employees and representatives of the City of Yelm and other governmental agencies to enter upon and inspect said property as reasonably necessary to process this application. I agree to pay all fees of the city that apply to this application.

Signed \_\_\_\_\_ Date \_\_\_\_\_

**A PORTION OF THE NW 1/4 OF THE NE 1/4 AND THE SW 1/4 OF THE NE 1/4 OF SEC. 25, TWP. 17 N., RGE. 1 E.  
WILLAMETTE MERIDIAN, THURSTON COUNTY, WASHINGTON**



## VICINITY MAP

ZONING: C-1, COMMERCIAL  
SITE AREA: 39,896 SF (0.92 ACRES)  
BUILDING HEIGHT: 40'

15106 CARTER LOOP S.E.  
YELM, WA 98597

52920000003

PROJECTS WEST, INC.  
2014 MERIDIAN ST. S.  
PUYALLUP, WA 98371  
(253) 841-5603

MJ INC OF WASHINGTON  
14028 104TH ST CT E

C.E.S. NW, INC.  
429 ST NE SUITE D  
PUYALLUP, WA 98372

FRONT: 15  
DRIVEWAY: 20  
SIDE: 10  
REAR: 20

WATER: CITY OF YELM  
SEWER: CITY OF YELM  
POWER: PUGET SOUND ENERGY  
TELEPHONE: FAIRPOINT COMMUNICATIONS  
GAS: PUGET SOUND ENERGY  
CABLE: COMCAST  
REFUSE: LE MAY

C.E.S. NW, INC.  
CIVIL ENGINEERING & SURVEYING  
5210 12TH STREET EAST  
FIFE, WA 98424  
(253) 922-1532

BASIS OF BEARINGS: THE MONUMENTED CENTERLINE OF CARTER  
LOOP SOUTHEAST AS SHOWN ON THE PLAT OF HAWKS PRAIRIE,  
RECORDED UNDER AFN 3511261, RECORDS OF THURSTON COUNTY

ELEVATION DATUM IS ASSUMED, THE BENCHMARK USED IS A SPIKE IN THE POWER POLE NEAR THE NORTHWEST CORNER OF TRACT D AS SHOWN ON MAP.

TRACT D OF PLAT OF HAWKS LANDING AS RECORDED  
MARCH 13, 2003 UNDER AUDITOR'S FILE NO. 3511261;

IN THURSTON COUNTY, WASHINGTON

△			
△			
△			
△			
△			
△			
No.	Revision:	Int.	Date:

**C.E.S. NW INC.**  
**CIVIL ENGINEERING & SURVEYING**

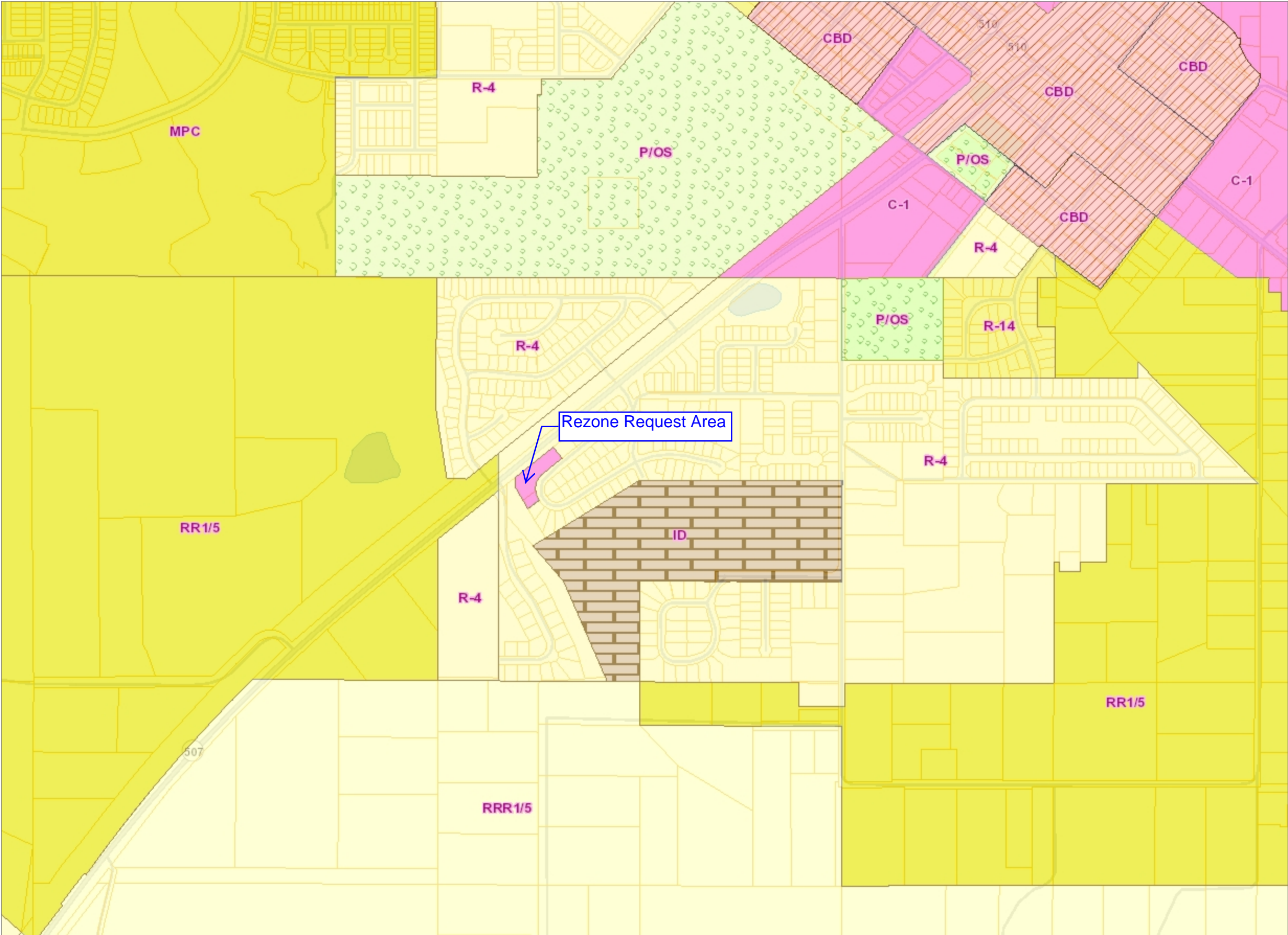
429 - 29TH ST. NE, SUITE D  
POTLAP, WA 98372

PH: (253) 848-4282  
ceservices@cesnwi.com

# CARTER LOOP SE REZONE PLAN

Project:	Client:
Designed:	CAD
Drawn:	JEH
Checked:	CAD
Scale:	1"=20'
Date:	8/9/23
Job No.:	06141
Sheet No.:	
<b>SITE</b>	
1 of 1 Sheets	

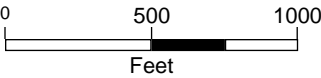




# Yelm Zoning Map - Rezone Area

Legend	
Zoning	
■ AC - Arterial Commercial	▨ CC - Core Commercial
■ AG - Agriculture	▨ CCD - Community Commercial
■ AQUATC - Aquatic	▨ CO - Community Office
■ ARI & ARI2 - Airport Related Industry	▨ COM - Commercial
■ AS - Auto Services	▨ COSC - Commercial Oriented Shopping Center
■ BD - Brewery	▨ CS - Community Service
■ C - Cemetery	▨ CS-H - Commercial Service High Density
■ C-1 - Commercial	▨ DB - Downtown Business
■ C-2 - Heavy Commercial	▨ FRL - Forestland
■ C-3 - Large Lot Commercial	■ GB & GB2 - Green Belt
■ C-3 - Special-Use Commercial	■ GC, GC2 & GC6 - General Commercial
▨ CAP - Capitol Campus	■ HC - Highway Commercial
▨ CBC & CBC2 - Capitol Boulevard Community	■ HC - Historic Commercial
■ CBD 4 - Central Business District 4	■ HD - High Density Residential
■ CBD 5 - Central Business District 5	▨ HDC-1 - High Density Corridor 1
■ CBD 6 - Central Business District 6	▨ HDC-2 - High Density Corridor 2
■ CBD 7 - Central Business District 7	▨ HDC-3 - High Density Corridor 3
▨ CBD - Central Business District	▨ HDC-4 - High Density Corridor 4

Scale 1: 11,524



Map Created Using GeoData Public Website  
Published: 8/9/2023

Note:



The information included on this map has been compiled by Thurston County staff from a variety of sources and is subject to change without notice. Additional elements may be present in reality that are not represented on the map. Ortho-photos and other data may not align. The boundaries depicted by these datasets are approximate. This document is not intended for use as a survey product. ALL DATA IS EXPRESSLY PROVIDED 'AS IS' AND 'WITH ALL FAULTS'. Thurston County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. In no event shall Thurston County be liable for direct, indirect, incidental, consequential, special, or tort damages of any kind, including, but not limited to, lost revenues or lost profits, real or anticipated, resulting from the use, misuse or reliance of the information contained on this map. If any portion of this map or disclaimer is missing or altered, Thurston County removes itself from all responsibility from the map and the data contained within. The burden for determining fitness for use lies entirely with the user and the user is solely responsible for understanding the accuracy limitation of the information contained in this map. Authorized for 3rd Party reproduction for personal use only.





**City of Yelm**  
EST. 1924  
**WASHINGTON**

September 27, 2023

To: City of Yelm Planning Commission

From: Gary Cooper, Planning & Building Manager

Subject: Craig Deaver Rezone Request for parcel 52920000003

The City has received a rezone request from Mr. Craig Deaver to rezone the parcel located at 15106 Carter Loop Road SE from C-1 Commercial to R-6 Moderate Density Residential.

#### **SUMMARY AND ANALYSIS**

The parcel currently has a one vacant structure. City water, sewer, and other utilities are available from Carter Loop SE, which also provides access to the site.

The parcel lies within the Yelm Urban Growth Area and is bordered by single family homes and SR 507. The parcel is currently zoned Commercial 1, and adjacent zoning is residential.(R4). The neighborhood is immediately adjacent to Ridgeline Middle School and Mill Pond Elementary School. The nearest Commercial I zone is .39 miles northeast of the subject site. The site is located in an area where the infrastructure is in place and can support the proposed development. This includes roads and utilities which are located in Carter Loop Road SE.

#### **LOGICAL ZONING BOUNDARIES**

If rezoned, the location and boundary of the parcel will keep a consistent and logical boundary between residential zones.

#### **CONSTRAINTS/ENVIRONMENTAL ISSUES**

There no known wetlands, flood zones, or high ground water flooding on the site. The site does contain soils "more preferred" for the protected Mazama Pocket Gopher, so a pocket gopher survey and report would need to be completed before future development could occur.

#### **BACKGROUND**

Originally designated as Tract D of the Hawks Landing Plat recorded March 5,2003. (SUB-03-8333-YL), the parcel was intended for "Future Commercial use, however; notes on the face of the recorded map regarding Tract D have been lined out and initialed by the original owner. There are no details regarding Tract D in the Staff Report or why the note was lined out on the recorded final plat.

## REVIEW AND APPROVAL CRITERIA

Rezoning requires a Comprehensive Plan amendment which must conform with the requirements of the Washington State Growth Management Act, Chapter 36.70A RCW, and all amendments for permanent changes to the comprehensive plan must be submitted to the Washington State Department of Commerce, pursuant to RCW 36.70A.106.

The rezoning must be consistent with the goals of the Washington State Growth Management Act and the goals and policies of the City of Yelm Comprehensive Plan.

The amendment must meet the goals of the Washington State Growth Management Act as follows:

- (1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Utilities including sewer and water are located within the property frontage. The property is close to services including gas stations, restaurants, and other retail. Elementary, middle and high schools are close by. The proposed amendment would provide more housing in close proximity to services and jobs.

- (2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.

The proposed rezoning would be consistent with the goal as it would allow for higher density residential uses in close proximity to jobs and services. The requested R-6 residential land use designation allows up to six dwellings per acre.

- (3) Transportation. Encourage efficient multimodal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.

Yelm Avenue West (SR 507) and Carter Loop Road SE are constructed to City standards, which include public sidewalks and transit services.

- (4) Housing. Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.

The R-6 zone allows for single and multifamily development, and would allow for a variety of housing types in the City.

- (5) Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional

differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

The proposed rezone would convert this parcel from commercial to residential. While the R-6 does not allow commercial uses, providing more housing options near the City's commercial center will likely create more business for the downtown area.

- (6) Property rights. Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

The proposal does not require any taking of private property.

The proposed rezone should be evaluated for internal consistency with the comprehensive plan, and for consistency with the county -wide planning policies, related plans, and the comprehensive plan of Thurston County.

The applicable goals of the Land Use Element of the Comprehensive Plan are as follows: Land Use Element Goal 5 states: "Encourage diverse residential growth." Supporting policies include 5.2 Adopt development standards that allow duplexes, townhouses, and accessory dwelling units within residential areas to increase the variety of housing in the community.

Land Use Element Goal 11 states: "Create safe and vibrant neighborhoods with places that build community and encourage active transportation." Supporting policies include 11.2 Plan for land use patterns that provide most neighborhood residents an array of basic services within a half mile or 20-minute walk from home.

The Housing element of the Comprehensive Plan encourages a variety of housing types and a range of affordable housing, with additional goals to provide energy efficient housing.

The proposed Residential zoning allows for, and encourages a variety of housing types. The location near commercial areas provides for basic services within a half-mile. The amendment would allow for residential uses, close to services, which is consistent with this goal.

Housing Goal 9 states: "Increase housing amid urban corridors and centers to meet the needs of a changing population."

The proposed amendment area is close to a commercial center, and medical facilities, restaurant, and childcare. Nearby is more convenience retail such as gas stations and fast food facilities.

## **CONCLUSION & RECOMMENDATION**

After careful evaluation, staff find the proposed rezone is consistent with the City's Comprehensive Plan and recommend that the Planning Commission send the proposal to the City Council with the following motion:

“The Yelm Planning Commission recommends the Yelm City Council approve the proposed rezone of the property located at 15106 Carter Loop SE from Commercial (C-1) to Moderate Density Residential ((R-6)).”

## **CHAPTER 18.19 FLOOD DAMAGE PREVENTION**

Sections:

18.19.010	Authorization, Findings of Fact, Purpose, and Objectives
18.19.020	General Provisions
18.19.030	Administration
18.19.040	Provisions for Flood Hazard Reduction
18.19.050	Variances

### **18.19.010 Authorization, Findings of Fact, Purpose, and Objectives.**

- A. Statutory Authorization. The Legislature of the State of Washington has delegated the responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of the City of Yelm, does ordain as follows:
- B. Findings of Fact. The flood hazard areas of The City of Yelm are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

These flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.

- C. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:
1. Protect human life and health;
  2. Minimize expenditure of public money for costly flood control projects;
  3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business interruptions;
  5. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;
  6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
  7. Notify potential buyers that the property is in a Special Flood Hazard Area;
  8. Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
  9. Participate in and maintain eligibility for flood insurance and disaster relief.
- D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes methods and provisions for:
1. Restricting or prohibiting development that is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
  2. Requiring that development vulnerable to floods be protected against flood damage at the time of initial construction;
  3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
  4. Controlling filling, grading, dredging, and other development, which may increase flood damage; and
  5. Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

#### **18.19.020 General Provisions.**



- A. Lands to Which This Ordinance Applies. This ordinance shall apply to all special flood hazard areas within the boundaries of the City of Yelm.
- B. Basis for Establishing the Areas of Special Flood Hazard. The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Thurston County, WA and Incorporated Areas" dated October 19, 2023, and any revisions thereto, with accompanying Flood Insurance Rate Maps (FIRMs) dated October 19, 2023, and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The FIS and the FIRM are on file with the city clerk. The best available information for flood hazard area identification as outlined in YMC 18.19.030(C)(2) shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under YMC 18.19.030(C)(2).
- C. Compliance. All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations.
- D. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violations of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions), shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be punished by imprisonment in jail for a term of up to 90 days, or by a fine of up to \$1,000, or both, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Yelm from taking such other lawful action as is necessary to prevent or remedy any violation.
- E. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the provision so declared to be unconstitutional or invalid.

#### **18.19.030 Administration.**

A. Establishment of Land Use Application

1. Land Use Application Required. A completed Land Use Application shall be submitted and all applicable permits shall be obtained before construction or development begins within any area of special flood hazard established in YMC 18.19.020(B). The permit shall be for all structures including manufactured homes, as set forth in Chapter 18.02 YMC Definitions, and for all development including fill and other activities, also as set forth in Chapter 18.02 YMC.
  2. Land Use Application. An application for land use shall be made on forms furnished by the City and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Where development is proposed in or adjacent to a Special Flood Hazard Area, the following additional information is required:
    - a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate with Section B completed by the Floodplain Administrator.
    - b. Elevation in relation to mean sea level to which any structure has been floodproofed;
    - c. Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in YMC 18.19.00(B)(2);
    - d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
    - e. Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and
    - f. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.
- B. Designation of the Floodplain Administrator. The City Engineer is hereby appointed to administer, implement, and enforce this ordinance by granting or denying land use permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

C. Duties & Responsibilities of the Floodplain Administrator. Duties of the Floodplain Administrator shall include, but not be limited to:

1. Permit Review. Review all land use permits to determine that:
  - a. The permit requirements of this ordinance have been satisfied;
  - b. All other required state and federal permits have been obtained;
  - c. The site is reasonably safe from flooding;
  - d. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of YMC 18.19.040 D.1 are met;
  - e. Notify FEMA when annexations occur in the Special Flood Hazard Area.
2. Use of Other Base Flood Data (In A Zones). When base flood elevation data has not been provided (in A zones) in accordance with YMC 18.19.020 B, Basis for Establishing the Areas of Special Flood Hazard, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer YMC 18.19.040(B), Specific Standards, and YMC 18.19.040(D), Floodways.
3. Information to be Obtained and Maintained.
  - a. Where base flood elevation data is provided through the FIS, FIRM, or required as in YMC 18.19.030(C)(2), obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
  - b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in YMC 18.19.030(C)(2):
    - i. Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed.
    - ii. Maintain the floodproofing certifications required in YMC 18.19.030(A)(2)(c)
4. Certification required by YMC 18.19.040(D)(1)

5. Records of all variance actions, including justification for their issuance.
  6. Improvement and damage calculations.
  7. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- D. Alteration of Watercourse. Whenever a watercourse is to be altered or relocated:
1. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.
  2. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
- E. Review of Building Permits. Where elevation data is not available either through the FIS, FIRM, or from another authoritative source YMC (18.19.030(C)(2)), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
- F. Changes to Special Flood Hazard Area. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Conditional Letter of Map Change and/or a Letter of Map Change, then the project approval shall be conditioned accordingly.

#### **18.19.040 Provisions for Flood Hazard Reduction.**

- A. General Standards. In all areas of special flood hazards, the following standards are required:
1. Anchoring
    - a. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads

including the effects of buoyancy.

- b. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

## 2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## 3. Storage of Materials and Equipment

- a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas (recommended).
- b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

## 4. Utilities

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- b. Water wells shall be located on high ground that is not in the floodway (WAC 173-160-171);
- c. New and replacement sanitary sewage systems shall be designed to minimize or

eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;

- d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. Development and Subdivision Proposals. All development, including subdivisions, shall:

- a. Be consistent with the need to minimize flood damage;
- b. Have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- c. Have adequate drainage provided to reduce exposure to flood damage.
- d. Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in YMC 18.19.020(B), Basis for Establishing the Areas of Special Flood Hazard, or YMC 18.19.030(C)(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction

- a. In AE zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.
- b. New construction and substantial improvement of any residential structure in an A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
- c. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs must



meet or exceed the following minimum criteria:

- i. Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
- ii. The bottom of all openings shall be no higher than one foot above grade.
- iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
- iv. A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

Alternatively, a registered engineer or architect may design and certify engineered openings.

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of provisions (a) or (b) below.
  - a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
    - i. In AE zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.
    - ii. If located in an A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.
    - iii. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall meet the requirements of YMC 18.19.030(C)(3)(b).

- b. If the requirements of provision (a) above are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:
  - i. Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;
  - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth in YMC 18.19.030(C)(1)(c).

### 3. Manufactured Homes

- a. All manufactured homes to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home and non-flood proofed utilities serving the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions shall be elevated so that either:
  - i. The lowest floor of the manufactured home is elevated one foot or more above the base flood elevation, or
  - ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:
  - a. Be on the site for fewer than 180 consecutive days, or
  - b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
  - c. Meet the requirements of YMC 18.19.040(B)(3) above.
5. Enclosed Area Below the Lowest Floor. If buildings or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.
6. Detached Accessory Structures (Detached Garages & Small Storage Structures)
  - a. Detached accessory structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:
    - i. In special flood hazard areas, the structure is not larger than a one-story two-car garage;
    - ii. The portions of the structure located below the BFE must be built using flood resistant materials;
    - iii. The structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
    - iv. Any machinery or equipment servicing the structure must be elevated or floodproofed to or above the BFE;
    - v. The structure must comply with floodway encroachment provisions in YMC 18.19.040(D)(1);
    - vi. The structure must be designed to allow for the automatic entry and exit of flood waters in accordance with YMC 18.19.040(B)(1);
    - vii. The structure shall have low damage potential;

- viii. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use; and
  - ix. The structure shall not be used for human habitation.
  - b. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in YMC 18.19.040(B)(1).
  - c. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.
7. Agricultural Structures Damaged by Flooding. Agricultural structures that are substantially damaged by flooding and agricultural structures that are repetitive loss structures are permitted to be repaired or restored to pre-damage condition, provided the following are satisfied:
- a. If substantially damaged, the substantial damage determination is based only on the cost to repair damage caused by flooding to pre-damage conditions.
  - b. The proposed repair or restoration does not change the size of the structure and does not significantly alter the nature of the building. With the exception of costs associated with wet floodproofing in accordance with paragraph (e) below, proposals that include work beyond or in addition to that necessary to repair or restore the structure to pre-damage condition must be regulated as substantial improvements.
  - c. The repaired or restored structure will continue to be an agricultural structure, as defined in these regulations.
  - d. Owners are notified, in writing, that agricultural structures approved under this section:
    - i. Will not be eligible for disaster relief under any program administered by the Federal Emergency Management Agency or any other Federal agency.
    - ii. Will have National Flood Insurance Program flood insurance policies rated based on the structure's risk.

- iii. May be denied National Flood Insurance Program flood insurance policies if repairs do not include the wet floodproofing construction requirements of paragraph (e) below.
  - e. Wet floodproofing construction requirements. When owners elect to wet floodproof flood-damaged agricultural structures as part of repair or restoration to pre-damage condition, the structure shall:
    - i. Be anchored to resist flotation, collapse, and lateral movement.
    - ii. Have flood damage-resistant materials below the base flood elevation.
    - iii. Have mechanical, electrical, and utility equipment elevated or floodproofed to or above the BFE.
    - iv. In special flood hazard areas, have flood openings in compliance with the requirements of YMC 18.19.040(B)(1).
- C. AE Zone with Base Flood Elevations but No Floodways. In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- D. Floodways. Located within areas of special flood hazard established in YMC 18.19.020(B) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:
  - 1. No Rise Standard. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.
  - 2. Residential Construction in Floodways. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure that do not increase the

ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

- a. Replacement of Farmhouses in Floodway. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:
  - i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;
  - ii. There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
  - iii. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
  - iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
  - v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
  - vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
  - vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;



- viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and
  - ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.
- b. Substantially Damaged Residences in Floodway
- i. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the Department of Ecology for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).
  - ii. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to 86.16 RCW, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:
    - 1) There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
    - 2) A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
    - 3) Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.

- 4) The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.
  - 5) New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.
  - 6) New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.
  - 7) All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.
3. All Other Building Standards Apply in the Floodway. If YMC 18.19.040(D)(1) is satisfied or construction is allowed pursuant to YMC 18.19.040(D)(2), all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of YMC 18.19.040, Provisions for Flood Hazard Reduction.
- E. General Requirements for Other Development. All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the state building codes with adopted amendments and any City of Yelm amendments, shall:
1. Be located and constructed to minimize flood damage;
  2. Meet the encroachment limitations of this ordinance if located in a regulatory floodway;
  3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
  4. Be constructed of flood damage-resistant materials;
  5. Meet the flood opening requirements of YMC 18.19.040(B)(1), and
  6. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric

service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

### **18.19.050 Variances.**

Variances from the floodplain management standards shall only be issued if meeting all of the applicable criteria in 18.19.050(A) and (B) YMC below. Variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

#### **A. Requirements for Variances**

##### **1. General variances criteria:**

- a. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result;
- b. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
- c. Upon a showing of good and sufficient cause;
- d. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;
- e. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing State laws or local ordinances;

##### **2. Special Circumstances**

- a. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Chapter 18.02 YMC of this ordinance in the definition of “Functionally Dependent Use.” In order to approve a variance for a functionally dependent

use, the criteria in YMC 18.19.050(A)(1) must be met.

- b. For the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure. In order to approve a variance for the repair, rehabilitation, or restoration of a historic structure, the criteria in YMC 18.19.050(A)(1) must be met.
- c. Accessory structures and agricultural structures. A variance is authorized to be issued for the construction or substantial improvement of accessory structures and agricultural structures provided the requirements of this section and the following are satisfied:
  - i. Accessory structures. A determination that the proposed accessory structure:
    - 1) Represents minimal investment and has low damage potential (amount of physical damage, contents damage, and loss of function).
    - 2) Is not larger than the size limits specified in YMC 18.19.040(B)(6).
    - 3) Complies with the wet floodproofing construction requirements of subsection (iii) below.
  - ii. Agricultural structures. A determination that the proposed agricultural structure:
    - 1) Is used exclusively in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock, or storage of tools or equipment used in connection with these purposes or uses, and will be restricted to such exclusive uses.
    - 2) Has low damage potential (amount of physical damage, contents damage, and loss of function).
    - 3) Does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquefied natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials.

- 4) Complies with the wet floodproofing construction requirements of subsection (iii) below.
- iii. Wet floodproofing construction requirements. Wet floodproofed structures shall:
  - 1) Be anchored to resist flotation, collapse, and lateral movement.
  - 2) Have flood damage-resistant materials below the base flood elevation
  - 3) Have mechanical, electrical, and utility equipment elevated or floodproofed to or above the BFE.
  - 4) In special flood hazard areas other than coastal high hazard areas, have flood openings in compliance with YMC 18.19.040(B)(1)(c).
3. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of YMC 18.19.030 and 18.19.040 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases. In order to approve a variance pursuant to this subsection, the criteria in YMC 18.19.050(A)(1) must be met.
- B. Additional Variance Considerations. In considering variance applications, the City of Yelm shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location, where applicable;
  6. The availability of alternative locations for the proposed use that are not subject to

flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in time of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site; and,
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, reclaimed water system, drainage, and streets and bridges.

C. Flood Damage Prevention Appeal

1. Determination. The hearing examiner shall process an appeal as provided in YMC 18.14.110 considering the criteria below.
2. Criteria. The hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter.
  - a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location, where applicable;
  - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. The compatibility of the proposed use with existing and anticipated development;



- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - k. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- 3. Upon consideration of the criteria factors of this section and the purposes of this chapter, the hearing examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- 4. The Floodplain Manager, as designated in YMC 18.19.030(B), shall maintain the records of all appeal actions and report any variances to the National Flood Insurance Program upon request. (Ord. 995 § 12 (Exh. A), 2015).

## **Chapter 18.02**

### **DEFINITIONS**

#### Sections:

- 18.02.010 Intent.
- 18.02.020 Use and interpretation generally.
- 18.02.030 Interpretation in case of conflicting definitions.
- 18.02.040 Specific definitions.

#### **18.02.010 Intent.**

It is the intent of this chapter to promote consistency and precision in the interpretation of this title and to define (and illustrate, where necessary) certain words, terms and phrases in the interest of reducing to a minimum the misunderstanding which may occur in the absence of such definition. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.02.020 Use and interpretation generally.**

In addition to the definitions in this title, the definitions from the following documents are adopted by reference:

- A. International Building Code and Chapter 51-50 WAC.
- B. International Residential Code and Chapter 51-51 WAC.
- C. International Mechanical Code and Chapter 51-52 WAC.
- D. Uniform Plumbing Code and Chapter 51-56 WAC.
- E. Washington State Energy Code and Chapters 51-11C and 51-11R WAC.
- F. International Fire Code and Chapter 51-54A WAC.
- G. State Subdivision Act, Chapter 58.17 RCW.
- H. State Condominium Act, Chapter 64.34 RCW.
- I. State Environmental Policy Act, Chapters 43.21C RCW and 197-11 WAC.
- J. Growth Management Act, Chapter 36.70A RCW.
- K. Local Project Review, Chapter 36.70B RCW.
- L. Floodplain Management, Chapter 173-158 WAC.

Words not defined in this title, the documents adopted by reference, the Yelm Municipal Code (YMC), the Washington Administrative Code (WAC), or the Revised Code of Washington (RCW) shall be as defined in the latest edition of Webster's Third New International Dictionary.

Words used in the present tense include the future; the singular term includes the plural and the plural the singular. "Shall" is always mandatory and "may" denotes a use of discretion. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.02.030 Interpretation in case of conflicting definitions.**

In addition to the words and terms defined in this chapter, several sections of this title contain definitions specifically related to those sections. In the event of conflict between definitions in this list and those shown in other sections of this title, the definition in the other section shall govern within the context of the section within which it appears. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.02.040 Specific definitions.**

"A" Definitions

“Abutting” means having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.

“Accessory Structure” means a structure on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

“Alteration of watercourse”: Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

“Appeal” means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

“Appeal, closed record” means an administrative appeal on the record, where no or limited new evidence or information is allowed to be submitted, and only appeal argument is allowed.

“Area of shallow flooding” means a designated zone AO, AH, AR/AO or AR/AH (or VO) on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). “Special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.~~Designation on maps always includes the letter “A.”~~

ASCE 24: The most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

“Automobile wrecking” means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any parcel of land of five or more motor vehicles which for a period exceeding 30 days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute evidence of an automobile wrecking yard.

#### “B” Definitions

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”).~~Designations on maps always include the letter “A.”~~

“Base Flood Elevation (BFE)” means the elevation to which floodwater is anticipated to rise during the base flood.

“Basement” in the context of flood damage prevention means any area of the building having its floor sub-grade (below ground level) on all sides.

“Bed and breakfast” means a facility offering from one to eight lodging units and breakfast to travelers and guests.

“Building”: See "Structure."

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Building Code” means the currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

#### “C” Definitions

“Concurrency” means a determination that the facilities necessary to serve a proposed land development are in place or planned for and properly funded with a reasonable expectation that the facilities will be in place at the time needed to preserve adopted levels of service.

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter. “Condominium” means either:

1. A division which is made by subjecting a portion of the land to Chapter 64.32 RCW and for which a binding site plan has been approved; or
2. A dwelling, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under the provisions of Chapter 64.32 RCW. A dwelling is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded with the county auditor.

“Contiguous land” means land touching other land at one or more points and having the same owner regardless of whether or not portions of the parcels have separate tax lot numbers, were purchased at different times, lie in different sections, are different government lots or are separated from each other by watercourses or private easements.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations that produce, use, or store hazardous materials or hazardous waste.

“Cumulative substantial value” means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 26 percent of the market value of the structure before the damage occurred.

#### “D” Definitions

“Development” in the context of flood damage prevention means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment located within the area of special flood hazard.

“Development agreement” means an agreement between the city and a property owner setting forth the applicable development standards and other provisions, including mitigation, which vest the development, and which are consistent with the development regulations at the time the agreement is entered into. Approval of a development agreement is obtained after a public hearing.

#### “E” Definitions

“Elevated building” means, for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

“Elevation certificate” means an administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).~~the official form (FEMA-Form 81-31) used to track development, provide elevation information necessary to ensure compliance with Chapter 18.21 YMC, and determine the proper insurance premium rate with Section B completed by the administrator.~~

“Essential public facility” means those infrastructure facilities that serve the residents of Yelm that are typically difficult to site. For Yelm, essential public facilities include such facilities as streets, domestic water systems, storm and sanitary sewer systems, public safety and emergency response facilities, parks and recreational facilities, schools, hospitals and emergency medical centers, railroad terminals and facilities, and electric/natural gas substations and appurtenances.

“Expansion to an Existing Manufactured Home Park or Subdivision” in the context of flood damage prevention means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“F” Definitions

“Family” means an individual, or two or more persons living together in a dwelling unit as a single housekeeping unit. The term “family” shall also include such other persons as may be included in any definition required by state or federal law.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;~~and/or,~~
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood Insurance Rate Map (FIRM)” means the official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).~~“Flood-Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.~~

“Flood elevation study” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).~~“Flood Insurance Study” (FIS) means the official report provided by the Federal Insurance Administration that includes flood profiles and the water surface elevation more than one foot.~~

“Floodplain or flood prone area” means any land area susceptible to being inundated by water from any source. See “Flood” or “flooding.”

“Floodplain administrator” means the community official designated by title to administer and enforce the floodplain management regulations.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other application of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

“Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the surface water elevation more than a designated height~~one foot~~, also known as “Regulatory Floodway.”~~the “zero rise floodway.”~~

“Floor area” means the sum of the gross horizontal area of the floor or floors measured from the exterior faces of the exterior walls, including elevator shafts and stairwells on each floor and all horizontal areas having a ceiling height of seven feet or more, but excluding all parking and loading spaces, cellars, unroofed areas, roofed areas open on two sides, areas having ceiling height of less than seven feet and basements used exclusively for storage or housing of mechanical or central heating equipment.

“Floor area, gross” means the sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

1. The term “gross floor area” includes basements, elevator shafts and stairwells at each story, floor space used for mechanical equipment with structural head room, interior balconies and mezzanines.
2. The gross floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks, shall be computed by counting each 10 feet of height or fraction thereof, as being equal to one floor.
3. The term “gross floor area” shall not include cellars or outside balconies that do not exceed a projection of six feet beyond the exterior walls of the building. Parking structures below grade and rooftop mechanical structures are excluded from gross floor area.

“G” Definitions

“Grade” in the context of signage, means the elevation or level of the street closest to the sign to which reference is made, as measured at the street’s centerline, or the relative ground level in the immediate vicinity of the sign.

“H” Definitions

“Hazard areas” means areas designated as frequently flooded areas or geologically hazardous areas due to potential for erosion, landslide, seismic activity, mine collapse, or other geological condition.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior in states without approved programs.

“I” Definitions

“Increased cost of compliance” means a flood insurance claim payment up to \$30,000 directly to a property owner for the cost to comply with floodplain management regulations after a direct physical loss caused by a flood. Eligibility for an ICC claim can be through a single instance of “substantial damage” or as a result of a “cumulative substantial damage.”

“J” Definitions

“K” Definitions

“Kennel” means a place where adult dogs are kept by persons providing the service of facilities for breeding, and the offspring thereof are sold for profit; or where such animals are received for care, training and boarding for compensation; but not including a small animal hospital, clinic, or pet shop.

## “L” Definitions

“Land Use Application” means a completed Land Use Application form as furnished by the City. The application shall also include all required attachments or other additional information listed in the application instructions. The required attachments and additional information required will depend on the type of permit requested.

“Lot” means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, ~~provided,~~ that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of ~~this title found at~~ YMC 18.21.080.

## “M” Definitions

“Manufactured home” at the time of manufacture is still considered to meet this definition notwithstanding that it is no longer transportable (RCW 46.04.302). “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when ~~connected-attached~~ to the required utilities. For floodplain management purposes, the term “manufactured home” also includes park trailers, travel trailers, recreational and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include travel trailers, recreational and other similar vehicles.

“Manufactured housing community” means a residential development typified by single ownership of land within the development, with the landowner retaining the rights of ownership. Home sites within the community are leased to individual homeowners, who retain customary leasehold rights.

“Manufactured Home Park or Subdivision” in the context of flood damage prevention means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community. “New Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

“Mean Sea Level” for purposes of the National Flood Insurance Program, means the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

## “N” Definitions

“New construction” for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

“Nonconforming building or structure” means a building, structure or portion thereof that was legally in existence, either constructed or altered prior to the effective date of the ordinance codified in this title, which does not conform with the requirements of this title.

“Nonconforming lot” means a parcel of land, in separate ownership, and of record prior to the effective date of the ordinance codified in this title, which does not conform to the dimensional or area requirements of this title.

“Nonconforming use” means an activity in a structure or on a tract of land that was legally in existence prior to the effective date of the ordinance codified in this title, which does not conform to the use regulations of the use district in which it is located.

“Nonconformity” means a legally established existing use or legally constructed structure that is not in compliance with current regulations.

#### “O” Definitions

“One hundred year flood” or “100 year flood: See “Base flood.”

“Open record hearing” means a hearing that creates the record through testimony and submission of information. An open record hearing held prior to a decision is an “open record predecision hearing.”

“Owner” means the fee simple owner as designated on the Thurston County assessor’s record.

#### “P” Definitions

“Principal use” means the specific and primary purpose for which land or building is occupied, arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

“Project permit” means any land use or environmental permit or license, including: binding site plans, building permits, critical area approvals, subdivisions, master plans, planned unit developments, site plan review, and special uses.

“Proportionate share” means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

#### “Q” Definitions

#### “R” Definitions

“Reasonably Safe from Flooding” means development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

“Recreational vehicle” means a vehicle which is:

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

“Recreational vehicle park” means a parcel or tract of land having designated areas for rent to one or more persons for parking or placement of a recreational vehicle for less than 30 days, as opposed to permanent year-round occupancy.

“Residential care facility” means a facility, licensed by the state, that cares for at least five but not more than 15 people in a state licensed facility, that has not been licensed as an adult family home pursuant to Chapter 70.128 RCW. These facilities include, but are not limited to: boarding homes as licensed by Chapter 18.20 RCW in accordance with Chapter 246-316 WAC; residential treatment facility for psychiatrically impaired children and youth in accordance with Chapter 71.12 RCW and WAC 246-323-010(32); adult residential rehabilitation center in



accordance with Chapter 71.12 RCW and WAC 246-325-010(3); private adult treatment home in accordance with Chapter 71.12 RCW and WAC 246-325-010(28); alcoholism treatment facility in accordance with Chapter 71.12 RCW and WAC 246-326-010(6); congregate care facility in accordance with Chapters 71.12 and 18.20 RCW and WAC 388-15-560; evaluation and treatment facility in accordance with RCW 71.34.020(6); group training home in accordance with RCW 71A.22.020(2); group care facility in accordance with RCW 74.15.020(3)(a); and foster family homes in accordance with RCW 74.15.020(3)(f) or congregate care facilities for senior housing with central cooking facilities, group homes for children, safe-homes and comparable facilities as determined by the approval authority.

“Retail establishment” means a business that is engaged in selling merchandise or goods to the general public for personal or household consumption.

“Riparian habitat” means areas adjacent to aquatic systems with flowing water that contain elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. Widths shall be measured from the ordinary high water mark or from the top of bank if the ordinary high water mark cannot be identified. It includes the entire extent of the floodplain and the extent of vegetation adapted to wet conditions as well as adjacent upland plant communities that directly influence the stream system. Riparian habitat areas include those riparian areas severely altered or damaged due to human development activities.

#### “S” Definitions

“Service oriented establishment” means a business that provides a specific or variety of services for individuals and businesses.

“Setback” means the distance between any building foundation, and the adjacent facing lot line.

“Site plan review committee” means a committee created by the city administrator to administer sections of this title.

“Special flood hazard areas” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter “A.”

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“Structure” used in the context of flood damage prevention means a walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the reconstruction, rehabilitation, addition, or other improvement is started. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include

~~either; any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:~~

- ~~1. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or Before the improvement or repair is started; or~~
- ~~2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

~~The term does not, however, include either:~~

- ~~1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or~~
- ~~2. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.~~

"Support structure" in the context of wireless communication facilities means the structure to which antennas and other necessary associated hardware are mounted. Support structures include but are not limited to the following:

1. Guyed tower: a support structure, consisting of metal cross strips or bars, which is steadied by wire guys in a radial pattern around the tower.
2. Lattice tower: a support structure that consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross-section.
3. Monopole: a support structure that consists of a single pole sunk into the ground and/or attached to a foundation.
4. Existing nonresidential structure: existing structures as specified in YMC 18.70.030 to which antennas may be attached which conform to the requirements of Chapter 18.70 YMC.

#### "T" Definitions

"Transfer of development rights" means the removal of the right to develop or build from land in one site, parcel, area or zoning district to another where such transfers are permitted.

#### "U" Definitions

#### "V" Definitions

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

#### "W" Definitions

"Water surface elevation" means the height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

#### "X" Definitions

#### "Y" Definitions

“Yard” means an open space unoccupied to the sky of uniform depth or width which lies between the property line and building line, or between the shoreline and the building line. The inside boundary shall be considered parallel to the nearest property line.

“Yard, flanking” means a yard on a corner building site extending from the front yard to the rear yard and measured as to the depth at the least horizontal distance between the street line of the flanking street and the exterior wall.

“Yard, front” means a yard extending across the full width of the lot from one property line to another and measured as to depth at the least horizontal distance between street line and the exterior wall.

“Yard, rear” means a yard extending from one property line to another except in the case of corner building sites when the rear yard shall extend from the interior side property line to the opposite side yard. Yard is measured as to depth at the least horizontal distance between the rear site line and the exterior wall.

“Yard, side” means a yard extending from the front yard to the rear yard except in the case of corner building sites when the side yard on the flanking street shall extend to the rear property line.

#### “Z” Definitions

“Zoning map, official” means the parcel-specific map of the city of Yelm entitled “Official Zoning Map, City of Yelm,” establishing the location and boundaries of the zoning districts established by this chapter. (Ord. 995 § 12 (Exh. A), 2015).

## Chapter 18.11

### ENVIRONMENTAL REVIEW AND PERMITTING

#### Sections:

- 18.11.010 Intent.
- 18.11.020 Authority.
- 18.11.030 Permits within a flood hazard area.
- 18.11.040 Critical areas review process.
- 18.11.050 Determination process.
- 18.11.060 Additional requirements for certain exceptions.
- 18.11.070 Modifications and variances.
- 18.11.080 Variances to flood damage prevention.
- 18.11.090 Flood damage prevention appeal.

#### **18.11.010 Intent.**

The intent of this chapter is to establish procedure for processing environmental review and environmental permits that apply to all lands within the ~~city~~City that may or may not be required during other integrated project review. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.020 Authority.**

The ~~city~~City may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with the provisions of Chapters 18.20 and 18.21 YMC. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.030 Permits within a special flood hazard area.**

A. ~~Development Land Use~~ Permit Required. A development permit shall be obtained before construction or development begins within ~~any area of a~~ special flood hazard ~~area as established in Chapter 18.19 YMC, established in YMC 18.21.090(C). The permit shall be for all structures, including manufactured homes, as defined in YMC 18.02.040, and for all development including fill and other activities.~~

B. Development Permit Application. ~~Where subdivision proposals and other proposed developments contain greater than 50 lots or 5 acres (whichever is the lesser) base flood elevation data shall be included as part of the application. Application for a development permit shall be made on forms furnished by the planning department and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:~~

- ~~1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;~~
  - ~~2. Elevation in relation to mean sea level to which any structure has been floodproofed;~~
  - ~~3. Certification by a registered professional engineer, surveyor, or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in YMC 18.21.080; and~~
  - ~~4. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.~~
- (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.040 Critical areas review process.**

##### A. Critical Areas Report Requirements.

1. Preparation by Qualified Professional. If required by the ~~community development department~~Public Services Department, the applicant shall submit a critical area report prepared by a qualified professional as defined herein.
2. Incorporating Best Available Science. The critical area report shall use scientifically valid methods and studies in the analysis of critical area data and field reconnaissance and reference the source of science used.

The critical area report shall evaluate the proposal and all probable impacts to critical areas in accordance with the provisions of this chapter.

3. Minimum Report Contents. At a minimum, the report shall contain the following:

- a. The name and contact information of the applicant, a description of the proposal, and identification of the permit requested.
- b. A copy of the site plan for the development proposal including:
  - i. A map drawn to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared.
  - ii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.
- c. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site.
- d. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area.
- e. A statement specifying the accuracy of the report, and all assumptions made and relied upon.
- f. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development.
- g. An analysis of site development alternatives including a no-development alternative.
- h. A description of reasonable efforts made to apply mitigation sequencing pursuant to mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas.
- i. Plans for adequate mitigation, as needed, to offset any impacts, in accordance with mitigation plan requirements, including, but not limited to:
  - i. The impacts of any proposed development within or adjacent to a critical area or buffer on the critical area.
  - ii. The impacts of any proposed alteration of a critical area or buffer on the development proposal, other properties and the environment.
- j. A discussion of the performance standards applicable to the critical area and proposed activity.
- k. Financial guarantees to ensure compliance.
- l. Any additional information required for the critical area as specified in the corresponding chapter.
- m. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the ~~community development department~~Public Services Department.

4. Additional information within a special flood hazard area

If the proposed action is located in a special flood hazard area, additional information may be required as established in YMC 18.19.030.

B. Critical Area Report – Additional Requirements for Habitat Conservation Areas.

1. The following areas shall be addressed in a critical area report for habitat conservation areas:
  - a. The project area of the proposed activity;
  - b. All habitat conservation areas and recommended buffers within 300 feet of the project area; and
  - c. All shoreline areas, floodplains, other critical areas, and related buffers within 300 feet of the project area.
2. Habitat Assessment. A habitat assessment is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a habitat conservation area shall contain an assessment of habitats including the following site- and proposal-related information at a minimum:
  - a. Detailed description of vegetation on and adjacent to the project area and its associated buffer.
  - b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species.
  - c. A discussion of any federal, state, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management recommendations, that have been developed for species or habitats located on or adjacent to the project area.
  - d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality.
  - e. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with mitigation sequencing.
  - f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
3. Additional Information May Be Required. When appropriate due to the type of habitat or species present or the project area conditions, the ~~community development department~~Public Services Department may also require the habitat management plan to include:
  - a. An evaluation by an independent qualified professional regarding the applicant's analysis and the effectiveness of any proposed mitigating measures or programs, to include any recommendations as appropriate;
  - b. A request for consultation with the Washington Department of Fish and Wildlife or the local Native American Indian tribe or other appropriate agency; and
  - c. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

C. Critical Area Report – Modifications to Requirements.

1. Limitations to Study Area. The ~~community development department~~Public Services Department may limit the required geographic area of the critical area report as appropriate if:
  - a. The applicant, with assistance from the ~~city~~City, cannot obtain permission to access properties adjacent to the project area; or
  - b. The proposed activity will affect only a limited part of the subject site.

2. Modifications to Required Contents. The applicant may consult with the ~~community development department~~Public Services Department prior to or during preparation of the critical area report to obtain ~~city~~City approval of modifications to the required contents of the report where, in the judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation.

3. Additional Information Requirements. The ~~community development department~~Public Services Department may require additional information to be included in the critical area report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required, includes, but is not limited to:

- a. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
- b. Grading and drainage plans; and
- c. Information specific to the type, location, and nature of the critical area.

#### D. Mitigation Requirements.

1. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this chapter, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

2. Mitigation shall be in kind and on site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

3. Mitigation shall not be implemented until after ~~city~~City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

E. Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts.
3. Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project.
4. Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods.
5. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action.
6. Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments.
7. Monitoring the hazard or other required mitigation and taking remedial action when necessary.
8. Mitigation for individual actions may include a combination of the above measures.

F. Mitigation Plan Requirements. When mitigation is required, the applicant shall submit for approval by the ~~city~~City a mitigation plan as part of the critical area report. The mitigation plan shall include:

1. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying environmental goals and objectives of the compensation proposed and including:
  - a. A description of the anticipated impacts to the critical areas and the mitigating actions proposed and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
  - b. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed; and
  - c. An analysis of the likelihood of success of the compensation project.
  - d. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this chapter have been met.
  - e. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of the mitigation proposed, such as:
    - i. The proposed construction sequence, timing, and duration;
    - ii. Grading and excavation details;
    - iii. Erosion and sediment control features;
    - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
    - v. Measures to protect and maintain plants until established.
    - vi. These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

G. Monitoring Program. The mitigation plan shall include a program for monitoring construction of the compensation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years one, three, five, and seven after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the compensation project. The compensation project shall be monitored for a period necessary to establish that performance standards have been met, but not for a period less than five years.

H. Contingency Plan. The mitigation plan shall include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

I. Financial Guarantees. The mitigation plan shall include financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.050 Determination process.**

A. Determination. The ~~community development department~~Public Services Department shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this chapter. The ~~community development department~~Public Services Department's determination shall be based on the review criteria.



B. Review Criteria.

1. Any alteration to a critical area, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:
  - a. The proposal minimizes the impact on critical areas in accordance with mitigation sequencing;
  - b. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
  - c. The proposal is consistent with the general purposes of this chapter and the public interest;
  - d. Any alterations permitted to the critical area are mitigated in accordance with mitigation requirements;
  - e. The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and
  - f. The proposal is consistent with other applicable regulations and standards.
2. The ~~city~~City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this chapter.
3. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences shall be denied.

C. Completion of the Critical Area Review. The ~~city~~City's determination regarding critical areas pursuant to this chapter shall be final concurrent with the final decision to approve, condition, or deny the development proposal or other activity involved.

D. Appeals. Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved. (Ord. 995 § 12 (Exh. A), 2015).

**18.11.060 Additional requirements for certain exceptions.**

A. Critical Area Exception. A request for an exception shall be made to the ~~city~~City and shall include a critical area report. The ~~community development department~~Public Services Department shall act on the exception request as part of the underlying permit approval based on the proposal's ability to comply with public agency and utility exception review criteria. The decision on the exception may be appealed pursuant to the appeal procedures of the underlying permit or approval.

1. Exception Criteria.

- a. There is no other practical alternative to the proposed development with less impact on the critical areas;
- b. The application of this chapter would unreasonably restrict the ability to provide utility services to the public;
- c. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
- d. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and
- e. The proposal is consistent with other applicable regulations and standards.

B. Exception Request and Review Process. An application for a reasonable use exception shall be made to the ~~city~~City and shall include a critical area report. The ~~community development department~~Public Services Department shall prepare a recommendation to the hearing examiner based on the proposal's ability to comply with reasonable use exception criteria.

C. Hearing Examiner Review. The hearing examiner shall review the application and conduct a public hearing. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria.

D. Reasonable Use Review Criteria.

1. The application of this chapter would deny all reasonable economic use of the property;
2. No other reasonable economic use of the property has less impact on the critical area;
3. The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;
4. The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this chapter, or its predecessor;
5. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;
6. The proposal will result in no net loss of critical area functions and values consistent with the best available science; or
7. The proposal is consistent with other applicable regulations and standards. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.070 Modifications and variances.**

A. Modifications to the prescriptive standards for the protection of critical areas may be authorized by the ~~city~~City. The site plan review committee shall review the request and make a written finding that the request meets or fails to meet the modification criteria as part of the underlying permit approval.

B. Modification Criteria. A modification may be granted only if the applicant demonstrates that the requested modification includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

C. Variances from the standards of this chapter may be authorized by the ~~city~~City. The hearing examiner shall process the variance as provided in Chapter 18.14 YMC.

D. Variances from the standards of the Flood Damage Prevention ordinance (Chapter 18.19) may be authorized as provided in YMC 18.19.050.

~~D~~E. Variance Criteria. A variance may be granted only if the applicant demonstrates that the requested action conforms to all of the criteria set forth as follows:

1. Special conditions and circumstances exist that are peculiar to the land, the lot, or something inherent in the land, and that are not applicable to other lands in the same district;
2. The special conditions and circumstances do not result from the actions of the applicant;
3. A literal interpretation of the provisions of this chapter would deprive the applicant of all reasonable economic uses and privileges permitted to other properties in the vicinity and zone of the subject property under the terms of this chapter, and the variance requested is the minimum necessary to provide the applicant with such rights;

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings under similar circumstances;

5. The granting of the variance is consistent with the general purpose and intent of this chapter, and will not further degrade the functions or values of the associated critical areas or otherwise be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the subject property;

6. The decision to grant the variance includes the best available science and gives special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish habitat.

**EF.** Conditions May Be Required. In granting any modification or variance, the ~~city~~City may prescribe such conditions and safeguards as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.

**FG.** Time Limit. A modification or variance shall be valid for the time period of the underlying permit approval. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.11.080 Variances to flood damage prevention.**

Variances from the floodplain management standards as established in Chapter 18.19 YMC may be issued in accordance with YMC 18.19.050.

~~A. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items listed in YMC 18.11.070(B) have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.~~

~~B. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or the Yelm Historic Register without regard to the procedures set forth in this section.~~

~~C. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.~~

~~D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.~~

~~E. Variances shall only be issued upon:~~

~~1. A showing of good and sufficient cause;~~

~~2. A determination that failure to grant the variance would result in exceptional hardship to the applicant;~~

~~3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in YMC 18.11.090(B), or conflict with existing local laws or ordinances.~~

~~F. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.~~

~~G. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except as set out in subsection A of this section.~~

~~H. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 995 § 12 (Exh. A), 2015).~~

**18.11.090—Flood damage prevention appeal.**

~~A. Determination. The hearing examiner shall process an appeal as provided in Chapter 18.14 YMC.~~

~~B. Criteria. The hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:~~

- ~~1. The danger that materials may be swept onto other lands to the injury of others;~~
- ~~2. The danger to life and property due to flooding or erosion damage;~~
- ~~3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
- ~~4. The importance of the services provided by the proposed facility to the community;~~
- ~~5. The necessity to the facility of a waterfront location, where applicable;~~
- ~~6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
- ~~7. The compatibility of the proposed use with existing and anticipated development;~~
- ~~8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;~~
- ~~9. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
- ~~10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and~~
- ~~11. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.~~

~~C. Upon consideration of the criteria factors of this section and the purposes of this chapter, the hearing examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.~~

~~D. The community development department shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 995 § 12 (Exh. A), 2015).~~

## Chapter 18.21

### CRITICAL AREAS AND RESOURCE LANDS

Sections:

- 18.21.010 Intent.
- 18.21.020 Best available science.
- 18.21.030 Applicability, exemption, and exceptions.
- 18.21.040 Allowed activities.
- 18.21.050 General critical area protective measures.
- 18.21.060 Wetlands.
- 18.21.070 Critical aquifer recharge areas.
- 18.21.080 Frequently flooded areas.
- 18.21.090 Flood damage protection.
- 18.21.100 Geologically hazardous areas.
- 18.21.110 Fish and wildlife habitat conservation areas.

#### **18.21.010 Intent.**

The intent of this chapter is to designate and classify ecologically sensitive and hazardous areas and to protect these areas and their functions and values, while also allowing for reasonable use of private property.

A. By limiting development and alteration of critical areas, this chapter seeks to:

1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, or flooding;
2. Maintain healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species;
3. Direct activities not dependent on critical areas resources to less ecologically sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas; and
4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas. Unavoidable impacts are impacts that remain after all appropriate and practicable measures have been achieved.

B. The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of the best available science, and in consultation with state and federal agencies and other qualified professionals, as determined according to WAC 365-195-900 through 365-195-925.

C. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property, or to prevent the provision of public facilities and services necessary to support existing and planned development without decreasing current service levels below minimum standards.

D. Relationship to Other Regulations.

1. These critical areas regulations shall apply as an overlay and in addition to zoning and other development regulations adopted by the city.
2. When a property or development is subject to more than one critical area overlay or other regulations apply to a development, the more restrictive shall apply.

E. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements. The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

F. Interpretation. In the interpretation and application of this chapter, the provisions of this chapter shall be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of this chapter, and shall be deemed to neither limit nor repeal any other provisions under state statute.

G. Jurisdiction – Critical Areas.

1. The eCity of Yelm shall regulate all uses, activities, and developments within, adjacent to, or likely to affect one or more critical areas, consistent with the best available science and the provisions herein.
2. Critical areas regulated by this chapter include:
  - a. Wetlands;
  - b. Critical aquifer recharge areas;
  - c. Frequently flooded areas;
  - d. Geologically hazardous areas; and
  - e. Fish and wildlife habitat conservation areas.
3. All areas within the city meeting the definition of one or more critical areas, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.
4. Areas Adjacent to Critical Areas Subject to Regulation. Areas adjacent to critical areas shall be considered to be within the jurisdiction of these requirements and regulations. Adjacent shall mean any activity located:
  - a. On a site immediately adjoining a critical area;
  - b. A distance equal to or less than the required critical area buffer width and building setback;
  - c. A distance equal to or less than one-half mile (2,640 feet) from a bald eagle nest;
  - d. A distance equal to or less than 300 feet upland from a stream, wetland, or water body;
  - e. Within ~~the floodway, floodplain, or channel migration zone~~ a frequently flooded area; or
  - f. A distance equal to or less than 200 feet from a critical aquifer recharge area.

H. Protection of Critical Areas. Any action taken pursuant to this chapter shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. All actions and developments shall be designed and constructed to avoid, minimize, and restore all adverse impacts. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed. No activity or use shall be allowed that results in a net loss of the functions or values of critical areas.

I. Protect Functions and Values of Critical Areas with Special Consideration to Anadromous Fish. Critical area reports and decisions to alter critical areas shall rely on the best available science to protect the functions and values of critical areas and must give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fish, such as salmon and bull trout, and their habitat. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.020 Best available science.**

A. Best Available Science to Be Consistent with Criteria. The best available science is that scientific information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified scientific

professional, or team of qualified scientific professionals that is consistent with criteria established in WAC 365-195-900 through 365-195-925. Sources of the best available science are included in Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas, published by the Washington State Department of Community, Trade and Economic Development.

B. Characteristics of a Valid Scientific Process. In the context of critical areas protection, a valid scientific process is one that produces reliable information useful in understanding the consequences of a local government's regulatory decisions, and in developing critical areas policies and development regulations that will be effective in protecting the functions and values of critical areas. To determine whether information received during the permit review process is reliable scientific information, the administrator shall determine whether the source of the information displays the characteristics of a valid scientific process. Such characteristics are as follows:

1. Peer Review. The information has been critically reviewed by other persons who are qualified scientific experts in that scientific discipline. The proponents of the information have addressed the criticism of the peer reviewers. Publication in a refereed scientific journal usually indicates that the information has been appropriately peer-reviewed;
2. Methods. The methods used to obtain the information are clearly stated and reproducible. The methods are standardized in the pertinent scientific discipline or, if not, the methods have been appropriately peer-reviewed to ensure their reliability and validity;
3. Logical Conclusions and Reasonable Inferences. The conclusions presented are based on reasonable assumptions supported by other studies and consistent with the general theory underlying the assumptions. The conclusions are logically and reasonably derived from the assumptions and supported by the data presented. Any gaps in information and inconsistencies with other pertinent scientific information are adequately explained;
4. Quantitative Analysis. The data has been analyzed using appropriate statistical or quantitative methods;
5. Context. The information is placed in proper context. The assumptions, analytical techniques, data, and conclusions are appropriately framed with respect to the prevailing body of pertinent scientific knowledge; and
6. References. The assumptions, analytical techniques, and conclusions are well referenced with citations to relevant, credible literature and other pertinent existing information.

C. Nonscientific Information. Nonscientific information may supplement scientific information, but it is not an adequate substitute for valid and available scientific information. Common sources of nonscientific information include anecdotal information, no expert opinion, and hearsay.

D. Absence of Valid Scientific Information. Where there is an absence of valid scientific information or incomplete scientific information relating to a critical area leading to uncertainty about the risk to critical area function of permitting an alteration of or impact to the critical area, the administrator shall:

1. Take a "precautionary or a no-risk approach" that strictly limits development and land use activities until the uncertainty is sufficiently resolved; and
2. Require application of an effective adaptive management program that relies on scientific methods to evaluate how well regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An adaptive management program shall:
  - a. Address funding for the research component of the adaptive management program;
  - b. Change course based on the results and interpretation of new information that resolves uncertainties; and

- c. Commit to the appropriate time frame and scale necessary to reliably evaluate regulatory and nonregulatory actions affecting protection of critical areas and anadromous fisheries. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.21.030 Applicability, exemption, and exceptions.**

##### **A. Applicability.**

1. The provisions of this chapter shall apply to all lands, all land uses and development activity, and all structures and facilities in the city, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the city. No person, company, agency, or applicant shall alter a critical area or buffer except as consistent with the purposes and requirements of this chapter.
2. The city shall not approve any permit or otherwise issue any authorization to alter the condition of any land, water, or vegetation, or to construct or alter any structure or improvement in, over, or on a critical area or associated buffer, without first ensuring compliance with the requirements of this chapter and, for special flood hazard areas, YMC Chapter 18.19.

**B. Exempt Activities.** The following developments, activities, and associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise consistent with the provisions of other local, state, and federal laws and requirements:

1. **Emergencies.** Those activities necessary to prevent an immediate threat to public health, safety, or welfare, or that pose an immediate risk of damage to private property and that require remedial or preventative action in a time frame too short to allow for compliance with the requirements of this chapter.

Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer. The person or agency undertaking such action shall notify the city within one working day following commencement of the emergency activity. Within 30 days, or sooner if the administrator deems it is necessary to critical areas protection, the administrator shall determine if the action taken was within the scope of the emergency actions allowed in this subsection.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan. The person or agency undertaking the action shall apply for review, and the alteration, critical area report, and mitigation plan shall be reviewed by the city in accordance with the review procedures contained herein. Restoration and/or mitigation activities must be initiated within one year, or sooner if the administrator deems it is necessary to critical areas protection, of the date of the emergency, and completed in a timely manner;

2. **Operation, Maintenance, or Repair.** Operation, maintenance, or repair of existing structures, infrastructure improvements, utilities, public or private roads, dikes, levees, or drainage systems, that do not require construction permits, if the activity does not further alter or increase the impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair. Restoration measures taken to restore an altered or damaged natural feature include:

- a. Active steps to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration, and
- b. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

3. **Passive Outdoor Activities.** Recreation, education, and scientific research activities that do not degrade the critical area.



C. Exempt Activities and Impacts to Critical Areas. All exempt activities shall use reasonable methods to avoid potential impacts to critical areas. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced.

D. Exception – Essential Public Facilities or Reasonable Use. If the application of this chapter would prohibit a development proposal for an essential public facility, the agency or utility may apply for an exception.

If the application of this chapter would deny all reasonable economic use of the subject property, the city shall determine if compensation is an appropriate action, or the property owner may apply for an exception.

An exception to this chapter may be granted by the hearing examiner in accordance with Chapter 18.14 YMC. (Ord. 995 § 12 (Exh. A), 2015).

In the case of special flood hazard areas, an exception may be granted by the hearing examiner in accordance with YMC 18.19.050.

#### **18.21.040 Allowed activities.**

A. Critical Area Report. Activities allowed under this chapter shall have been reviewed and permitted or approved by the city, but do not require submittal of a separate critical area report, unless required previously for an underlying permit. The administrator may apply conditions to the underlying permit or approval to ensure that the allowed activity is consistent with the provisions of this chapter to protect critical areas.

B. Required Use of Best Management Practices (BMPs). All allowed activities shall be conducted using the best management practices that result in the least amount of impact to the critical areas. BMPs are measures that control soil loss and reduce water quality degradation, minimize adverse impacts to surface and ground water, protect trees and vegetation, and provide standards for proper use of chemical herbicides. The city shall observe the use of best management practices to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall be restored, rehabilitated, or replaced.

C. Allowed Activities. The following activities are allowed:

1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that involve both discretionary land use approvals and construction approvals if all of the following conditions have been met:

- a. The provisions of this chapter have been previously addressed as part of another approval;
- b. There have been no material changes in the potential impact to the critical area or buffer since the prior review;
- c. There is no new information available that is applicable to any critical area review of the site or particular critical area;
- d. The permit or approval has not expired or, if no expiration date, no more than five years have elapsed since the issuance of that permit or approval; and
- e. Compliance with any standards or conditions placed upon the prior permit or approval has been achieved or secured;

2. Modification to Existing Structures. Structural modification of, addition to, or replacement of an existing legally constructed structure that does not further alter or increase the impact to the critical area or buffer and there is no increased risk to life or property as a result of the proposed modification or replacement; provided, that restoration of structures substantially damaged by fire, flood, or act of nature must be initiated within 18 months of the date of such damage, as evidenced by the issuance of a valid building permit, and diligently pursued to completion. Repairs to existing structures located within a special flood hazard area shall comply with the provisions of YMC 18.19.040;

3. Activities within the Improved Right-of-Way. Replacement, modification, installation, or construction of utility facilities, lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located within the improved portion of the public right-of-way or a city-authorized private roadway except those activities that alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater, subject to the following:

- a. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the right-of-way improvement, including disturbed areas;
- b. Retention and replanting of native vegetation shall occur wherever possible along the right-of-way improvement and resulting disturbance. Native vegetation includes plant species that are indigenous to the area in question; and
- c. Removal of invasive species.

4. Minor Utility Projects. Utility projects which have minor or short-duration impacts to critical areas, as determined by the administrator in accordance with the criteria below, and which do not significantly impact the function or values of a critical area(s); provided, that such projects are constructed with best management practices and additional restoration measures are provided. Minor activities shall not result in the transport of sediment or increased stormwater. Such allowed minor utility projects shall meet the following criteria:

- a. There is no practical alternative to the proposed activity with less impact on critical areas;
- b. The activity involves the placement of a utility pole, street signs, anchor, or vault or other small component of a utility facility; and
- c. The activity involves disturbance of an area less than 75 square feet;

5. Public and Private Pedestrian Trails. Public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation areas, or their buffers, subject to the following:

- a. The trail surface shall meet all other requirements including water quality standards set forth in the [locally adopted stormwater management regulations];
- b. Critical area and/or buffer widths shall be increased, where possible, equal to the width of the trail corridor, including disturbed areas; and
- c. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a manner that does not increase the risk of landslide or erosion and in accordance with an approved geotechnical report;

6. Select Vegetation Removal Activities. The following vegetation removal activities; provided, that no vegetation shall be removed from a critical area or its buffer without approval from the administrator:

- a. The removal of the following vegetation with hand labor, light equipment or regulated grazing:
  - i. Invasive and noxious weeds;
  - ii. English ivy (*Hedera helix*);
  - iii. Himalayan blackberry (*Rubus discolor*, *R. procerus*);
  - iv. Evergreen blackberry (*Rubus laciniatus*); and
  - v. Scotch broom (*Cytisus scoparius*);
- b. The removal of trees from critical areas and buffers that are hazardous, posing a threat to public safety or posing an imminent risk of damage to private property; provided, that:

- i. The applicant submits a report from a certified arborist, registered landscape architect, or professional forester that documents the hazard and provides a replanting schedule for the replacement trees;
  - ii. Tree cutting shall be limited to pruning and crown thinning, unless otherwise justified by a qualified professional. Where pruning or crown thinning is not sufficient to address the hazard, trees should be removed or converted to wildlife snags;
  - iii. All vegetation cut (tree stems, branches, etc.) shall be left within the critical area or buffer unless removal is warranted due to the potential for disease or pest transmittal to other healthy vegetation;
  - iv. The landowner shall replace any trees that are removed with new trees at a ratio of two replacement trees for each tree removed (2:1) within one year in accordance with an approved restoration plan. Replacement trees may be planted at a different nearby location if it can be determined that planting in the same location would create a new hazard or potentially damage the critical area. Replacement trees shall be species that are native and indigenous to the site and a minimum of one inch in diameter-at-breast-height (dbh) for deciduous trees and a minimum of six feet in height for evergreen trees as measured from the top of the root ball;
  - v. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall be consulted to determine timing and methods of removal that will minimize impacts; and
  - vi. Hazard trees determined to pose an imminent threat or danger to public health or safety, to public or private property, or of serious environmental degradation may be removed or pruned by the landowner prior to receiving written approval from the city; provided, that within 14 days following such action, the landowner shall submit a restoration plan that demonstrates compliance with the provisions of this chapter;
- c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State Forest Practices Act; Chapter 76.09 RCW; provided, that the removed vegetation shall be replaced in-kind or with similar native species within one year in accordance with an approved restoration plan; and
  - d. Unless otherwise provided, or as a necessary part of an approved alteration, removal of any vegetation or woody debris from a habitat conservation area or wetland shall be prohibited;
7. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary, as approved by the city; provided, that their use shall be restricted in accordance with State Department of Fish and Wildlife Management recommendations and the regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency;
8. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs, percolation tests, and other related activities, where such activities do not require construction of new roads or significant amounts of excavation. In every case, impacts to the critical area shall be minimized and disturbed areas shall be immediately restored; and
9. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and boundary markers. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.050 General critical area protective measures.**

**A. Critical Area Markers and Signs.**

1. The boundary at the outer edge of critical area tracts and easements shall be delineated with permanent survey stakes as established by local survey standards.
2. The boundary at the outer edge of the critical area or buffer shall be identified with temporary signs prior to any site alteration. Such temporary signs shall be replaced with permanent signs prior to occupancy or use of the site.

3. These provisions may be modified by the administrator as necessary to ensure protection of sensitive features or wildlife needs.

**B. Financial Guarantee to Ensure Mitigation, Maintenance, and Monitoring.**

1. When mitigation required pursuant to a development proposal is not completed prior to the city final permit approval, such as final plat approval or final building inspection, the city shall require the applicant to post a financial guarantee in a form and amount deemed acceptable by the city. If the development proposal is subject to mitigation, the applicant shall post a financial guarantee security in a form and amount deemed acceptable by the city to ensure mitigation is fully functional.

2. The bond shall be in the amount of 150 percent of the estimated cost of the uncompleted actions or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever is greater.

3. The bond shall be in the form of an assignment of savings account in the city trust fund.

4. Financial guarantees shall remain in effect until the city determines in writing that the standards bonded for have been met. Bonds or other security shall be held by the city for a minimum of five years to ensure that the required mitigation has been fully implemented and demonstrated to function, and may be held for longer periods when necessary.

5. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to complete required mitigation, maintenance, monitoring, or restoration.

6. Public development proposals shall be relieved from having to comply with the bonding requirements of this section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.

7. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the failure to provide a monitoring report within 30 days after it is due or comply with other provisions of an approved mitigation plan shall constitute a default, and the city may demand payment of any financial guarantees or require other action authorized by the city code or any other law.

8. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

**C. Critical Area Inspections.** Reasonable access to the site shall be provided to the city, state, and federal agency review staff for the purpose of inspections during any proposal review, restoration, emergency action, or monitoring period. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.060 Wetlands.**

**A. Designating Wetlands.** Wetlands are those areas, designated in accordance with the Washington State Wetland Identification and Delineation Manual (1997), that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. All areas within the city meeting the wetland designation criteria in the Identification and Delineation Manual, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

**B. Wetland Ratings.** Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system found in the Washington State Wetland Rating System documents or as revised by Ecology.

**1. Wetland Rating Categories.**

a. Category I. Category I wetlands are those that:

- i. Represent a unique or rare wetland type; or
- ii. Are more sensitive to disturbance than most wetlands; or

- iii. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or
  - iv. Provide a high level of functions. These include estuarine wetlands, natural heritage wetlands, bogs, mature and old-growth forested wetlands, wetlands in coastal lagoons and wetlands that score more than 70 points in the 2004 rating system.
- b. Category II. Category II wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. Category II wetlands in western Washington include wetlands scoring between 51 and 69 points in the 2004 rating system.
- c. Category III. Category III wetlands are those with a moderate level of functions (scores between 30 and 50 points). Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.
- d. Category IV. Category IV wetlands have the lowest levels of functions (scores less than 30 points) and are often heavily disturbed.
2. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

C. Mapping. The approximate location and extent of wetlands are shown on the critical area maps prepared by the community development department. These maps are to be used as a guide for the city, project applicants, and/or property owners, and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

The exact location of a wetland's boundary shall be determined through the performance of a field investigation by a qualified professional wetland scientist applying the Washington State Wetlands Identification and Delineation Manual as required by RCW 36.70A.175.

D. Activities Allowed in Wetlands. The activities listed below are allowed in wetlands in addition to those activities listed in, and consistent with, the provisions established in allowed activities, and do not require submission of a critical area report, except where such activities result in a loss to the functions and values of a wetland or wetland buffer. These activities include:

- 1. Conservation or preservation of soil, water, vegetation, fish, shellfish, and other wildlife that does not entail changing the structure or functions of the existing wetland.
- 2. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- 3. Drilling for utilities under a wetland; provided, that the drilling does not interrupt the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column is disturbed.
- 4. Enhancement of a Wetland through the Removal of Nonnative Invasive Species. Weeding shall be restricted to hand removal and weed material shall be removed from the site. Bare areas that remain after weed removal shall be revegetated with native shrubs and trees at natural densities. Some hand seeding may also be done over the bare areas with native herbs.

E. Wetland Analysis.

1. A written assessment and accompanying maps of the wetlands and buffers within 300 feet of the project area, including the following information at a minimum:
  - a. Wetland delineation and required buffers;
  - b. Existing wetland acreage;
  - c. Wetland category;
  - d. Vegetative, faunal, and hydrologic characteristics;
  - e. Soil and substrate conditions;
  - f. Topographic elevations, at two-foot contours; and
  - g. A discussion of the water sources supplying the wetland and documentation of hydrologic regime (locations of inlet and outlet features, water depths throughout the wetland, evidence of recharge or discharge, evidence of water depths throughout the year: drift lines, algal layers, moss lines, and sediment deposits).
2. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land use activity.
3. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and wetland functions.
4. Functional evaluation for the wetland and adjacent buffer using a local or state agency staff-recognized method and including the reference of the method and all data sheets.
5. Proposed mitigation, if needed, including a written assessment and accompanying maps of the mitigation area, including the following information at a minimum:
  - a. Existing and proposed wetland acreage;
  - b. Vegetative and faunal conditions;
  - c. Surface and subsurface hydrologic conditions including an analysis of existing and future hydrologic regime and proposed hydrologic regime for enhanced, created, or restored mitigation areas;
  - d. Relationships within watershed and to existing water bodies;
  - e. Soil and substrate conditions, topographic elevations;
  - f. Existing and proposed adjacent site conditions;
  - g. Required wetland buffers (including any buffer reduction and mitigation proposed to increase the plant densities, remove weedy vegetation, and replant the buffers);
  - h. Property ownership; and
  - i. Associated wetlands and related wetlands that may be greater than 300 feet from the subject project.
6. A scale map of the development proposal site and adjacent area. A discussion of ongoing management practices that will protect wetlands after the project site has been developed; including proposed monitoring and maintenance programs.
7. A bond estimate for the installation (including site preparation, plant materials and installation, fertilizers, mulch, stakes) and the proposed monitoring and maintenance work for the required number of years.

8. Title Notification. All activity in critical area protection areas shall be accompanied by a notice to title, recorded with the Thurston County auditor.

F. Wetland Performance Standards – General Requirements.

1. Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

2. Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this chapter.

3. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except as provided for in the public agency and utility exception, reasonable use exception, and variance sections of this chapter.

4. Category II and III Wetlands.

a. Water-dependent activities may be allowed where there are no practicable alternatives that would have a less adverse impact on the wetland, its buffers and other critical areas.

b. Where non-water-dependent activities are proposed, it shall be presumed that alternative locations are available, and activities and uses shall be prohibited, unless the applicant demonstrates that:

i. The basic project purpose cannot reasonably be accomplished and successfully avoid, or result in less adverse impact on, a wetland on another site or sites in the general region; and

ii. All alternative designs of the project as proposed, that would avoid or result in less of an adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration, or density of the project, are not feasible.

5. Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and loss functions will be provided.

6. Wetland Buffers.

a. Standard Buffer Widths. The standard buffer widths presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation is inadequate, then the buffer width shall be increased or the buffer should be planted to maintain the standard width. Required standard wetland buffers, based on wetland category and land use intensity, are as follows:

i. Category I:

Natural Heritage Wetlands	250 feet
Bogs	250 feet
High level of function for habitat (score of 29 – 36 points)	300 feet
Moderate level of function for habitat (score of 20 – 28 points)	150 feet
High level of function for water quality improvement (24 – 32 points) and low for habitat (less than 20 points)	100 feet
Not meeting any other characteristics	100 feet

ii. Category II:

High level of function for habitat (score of 29 – 36 points)	300 feet
Moderate level of function for habitat (score of 20 – 28 points)	150 feet
High level of function for water quality improvement and low for habitat (score for water quality 24 – 32 points and habitat less than 20 points)	100 feet
Not meeting any other characteristics	100 feet

iii. Category III:

Moderate level of function for habitat (score of 20 – 28 points)	150 feet
Not meeting above characteristic	80 feet

iv. Category IV:

Score for all three basic functions less than 30 points	50 feet
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b. Measurement of Wetland Buffers. All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category and the proposed land use. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers.

c. Increased Wetland Buffer Widths. The administrator shall require increased buffer widths in accordance with the recommendations of an experienced, qualified professional wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

i. A larger buffer is needed to protect other critical areas;

ii. The buffer or adjacent uplands has a slope greater than 15 percent or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or

iii. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to protect the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three feet on center for shrubs and eight feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered “inadequate” and will need to be enhanced through additional native plantings and (if appropriate) removal of nonnative plants when: (A) nonnative or invasive plant species provide the dominant cover, (B) vegetation is lacking due to disturbance and wetland resources could be adversely affected, or (C) enhancement plantings in the buffer could significantly improve buffer functions.

d. Wetland Buffer Width Averaging. The administrator may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:



- i. It will not reduce wetland functions or functional performance;
  - ii. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
  - iii. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
  - iv. The buffer width is not reduced to less than 75 percent of the standard width or 35 feet.
- e. Buffer Consistency. All mitigation sites shall have buffers consistent with the buffer requirements of this chapter.
- f. Buffer Maintenance. Except as otherwise specified or allowed in accordance with this chapter, wetland buffers shall be retained in an undisturbed or enhanced condition. Removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- g. Buffer Uses. The following uses may be permitted within a wetland buffer in accordance with the review procedures of this chapter; provided they are not prohibited by any other applicable law and they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
- i. Conservation and Restoration Activities. Conservation or restoration activities aimed at protecting the soil, water, vegetation, or wildlife.
  - ii. Passive Recreation. Passive recreation facilities designed and in accordance with an approved critical area report.

G. Performance Standards – Compensatory Mitigation Requirements. Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the state Department of Ecology Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, 1994, as revised.

1. Mitigation shall be required in the following order of preference:

- a. Avoiding the impact altogether by not taking a certain action or parts of an action.
- b. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
- c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- d. Reducing or eliminating the impact over time by preservation and maintenance operations.
- e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.

2. Mitigation for Lost or Affected Functions. Compensatory mitigation actions shall address functions affected by the alteration to achieve functional equivalency or improvement and shall provide similar wetland functions as those lost, except when:

- a. The lost wetland provides minimal functions as determined by a site-specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
- b. Out-of-kind replacement will best meet formally identified watershed goals, such as replacement of historically diminished wetland types.

3. Preference of Mitigation Actions. Mitigation actions that require compensation by replacing, enhancing, or substitution shall occur in the following order of preference:

- a. Restoring wetlands on upland sites that were formerly wetlands.
- b. Creating wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of nonnative introduced species. This should only be attempted when there is a consistent source of hydrology and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.
- c. Enhancing significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area meeting appropriate ratio requirements.

4. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in kind and on site, or in-kind and within the same stream reach, subbasin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

- a. There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include: anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydrogeomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);
- b. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland; and
- c. Off-site locations shall be in the same subdrainage basin unless:
  - i. Established watershed goals for water quality, flood or conveyance, habitat, or other wetland functions have been established and strongly justify location of mitigation at another site; or
  - ii. Credits from a state certified wetland mitigation bank are used as mitigation and the use of credits is consistent with the terms of the bank's certification.

5. Mitigation Timing. Mitigation projects shall be completed with an approved monitoring plan prior to activities that will disturb wetlands. In all other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity or development. Construction of mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The administrator may authorize a one-time temporary delay, up to 120 days, in completing minor construction and landscaping when environmental conditions could produce a high probability of failure or significant construction difficulties. The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, and general welfare of the public. The request for the temporary delay must include a written justification that documents the environmental constraints that preclude implementation of the mitigation plan. The justification must be verified and approved by the city and include a financial guarantee.

6. Mitigation Ratios.

- a. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in kind, is on site, is the same category, is timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply in those cases. These ratios do not apply to the use of credits from a state certified wetland mitigation bank. When credits from a certified bank are used, replacement ratios should be

consistent with the requirements of the bank's certification. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Category I	6 to 1
Category II	3 to 1
Category III	2 to 1
Category IV	1.5 to 1

b. Increased Replacement Ratio. The administrator may increase the ratios under the following circumstances:

- i. Uncertainty exists as to the probable success of the proposed restoration or creation;
  - ii. A significant period of time will elapse between impact and replication of wetland functions;
- c. Proposed mitigation will result in a lower category wetland or reduced functions relative to the wetland being impacted; or
- d. The impact was an unauthorized impact.

7. Wetlands Enhancement as Mitigation.

- a. Impacts to wetland functions may be mitigated by enhancement of existing significantly degraded wetlands, but must be used in conjunction with restoration and/or creation. Applicants proposing to enhance wetlands must produce a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions.
- b. At a minimum, enhancement acreage shall be double the acreage required for creation or restoration. The ratios shall be greater than double the required acreage where the enhancement proposal would result in minimal gain in the performance of wetland functions and/or result in the reduction of other wetland functions currently being provided in the wetland.
- c. Mitigation ratios for enhancement in combination with other forms of mitigation shall range from 6:1 to 3:1 and be limited to Class III and Class IV wetlands.

H. Performance Standards – Land Divisions. The division, redivision, or adjusting of boundary lines of land in wetlands and associated buffers is subject to the following:

1. Land that is located wholly within a wetland or its buffer may not be subdivided.
2. Land that is located partially within a wetland or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot is:
  - a. Located outside of the wetland and its buffer; and
  - b. Meets the minimum lot size requirements of [locally adopted zoning dimensions].
3. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the city determines that no other feasible alternative exists and when consistent with this chapter. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.070 Critical aquifer recharge areas.**

A. Critical Aquifer Recharge Areas Designation. Critical aquifer recharge areas are those areas with a critical recharging effect on aquifers used for potable water as defined by WAC 365-190-030(2). A critical aquifer recharge area has prevailing geologic conditions associated with infiltration rates that create a high potential for contamination of ground water resources or contribute significantly to the replenishment of ground water.

B. Designation of Critical Aquifer Recharge Areas. The entire city of Yelm and its urban growth area is identified as a highly susceptible critical aquifer recharge area.

C. Performance Standards – General Requirements.

1. Activities may only be permitted in a critical aquifer recharge area if the applicant can show that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer.
2. The proposed activity must comply with the water source protection requirements and recommendations of the U.S. Environmental Protection Agency, Washington State Department of Health, and the Thurston County environmental health division.
3. All new development, redevelopment, and small parcel development shall meet the water quality requirements of the stormwater manual as adopted by the city of Yelm.

D. Performance Standards – Specific Uses.

1. Storage Tanks. All storage tanks proposed to be located in a critical aquifer recharge area must comply with local building code requirements and must conform to the following requirements:
  - a. Underground Tanks. All new underground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
    - i. Prevent releases due to corrosion or structural failure for the operational life of the tank;
    - ii. Be protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substances; and
    - iii. Use material in the construction or lining of the tank that is compatible with the substance to be stored.
  - b. Aboveground Tanks. All new aboveground storage facilities proposed for use in the storage of hazardous substances or hazardous wastes shall be designed and constructed so as to:
    - i. Not allow the release of a hazardous substance to the ground, ground waters, or surface waters;
    - ii. Have a primary containment area enclosing or underlying the tank or part thereof; and
    - iii. A secondary containment system either built into the tank structure or a dike system built outside the tank for all tanks.
2. Vehicle Repair and Servicing.
  - a. Vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.

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

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

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

b. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.21.080 Frequently flooded areas.**

A. Designation of Frequently Flooded Areas. Frequently flooded areas shall include special flood hazard areas identified by the Flood Insurance Rate Map(s) (YMC 18.19.020) and areas mapped by Thurston County as high ground water flood hazard areas. The flood insurance maps and high ground water maps are hereby adopted by reference, declared part of this chapter, and are available for public review at the city.

~~B. Flood Elevation Data. When base flood elevation data is not available (A and V zones), the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other official source, in order to administer this chapter.~~

~~C. Maintenance of Records. Where base flood elevation data is provided through the flood insurance study or required through this chapter, the administrator shall obtain and record the flood elevation certificates of all new or substantially improved structures, and whether or not the structure contains a basement. The administrator shall also maintain for public inspection all records of floodplain hazards, certificates of floodproofing, and flood elevation data.~~

~~D.~~ Performance Standards – General Requirements. The following standards shall be adhered to in all frequently flooded areas, except as otherwise provided for in this chapter.

1. Approval of Work in a Frequently Flooded Area. Prior to any clearing, grading, dumping, drilling, dredging, filling, or the construction or reconstruction of any structure, the city shall have approved through the underlying permit or through approval of a critical areas report that the standards for development within a frequently flooded area have been met.

2. No activity within a frequently flooded high ground water flood hazard area shall increase the base flood elevation.

3. Performance standards within a special flood hazard area shall be as established in Chapter 18.19.

~~E. Performance Standards—General Requirements in FEMA Designated 100-Year Floodplain.~~

~~1. Structures shall be located outside the floodplain. All structures, utilities, and other improvements shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures, utilities, and other improvements shall be placed on the highest land on the site, oriented parallel to flow rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the administrator detects any evidence of active hyporheic exchange on a site, the development shall be located to minimize disruption of such exchange.~~

~~2. Methods That Minimize Flood Damage. All new construction and substantial improvements shall be constructed using flood resistant materials and using methods and practices that minimize flood damage.~~

~~3. Utility Protection. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.~~

~~4. Elevation Certificate Following Construction. Following construction of a structure within the floodplain where the base flood elevation is provided, the applicant shall obtain an elevation certificate that records the elevation of the lowest floor. The elevation certificate shall be completed by a surveyor or engineer licensed in the state of Washington and shall be submitted to the city for recording.~~

~~5. Anchoring.~~

~~a. Anchoring Requirement. All new construction and substantial improvements within the floodplain shall be anchored to prevent flotation, collapse, or lateral movement of the structure.~~

~~b. Manufactured Homes. All manufactured homes placed within the floodplain must be anchored to prevent flotation, collapse, or lateral movement and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA P-85: "Protecting Manufactured Homes from Floods and Other Hazards" guidebook for additional techniques).~~

~~6. Fill and Grading. Fill and grading with the floodplain shall only occur after a determination that the fill or grading will not block side channels, inhibit channel migration, increase the base flood elevation, or be within a channel migration zone.~~

F. Performance Standards—Specific Uses in the FEMA Designated 100-Year Floodplain. Specific uses shall adhere to the following relevant standards, in addition to the general standards:

1. Divisions of Land:

~~a. All new divisions of land, including subdivisions, short subdivisions, boundary line adjustments, binding site plans, and master planned communities shall not create any building lot for commercial or residential purposes with any portion within the floodplain.~~

~~b. Floodplain areas shall be dedicated as open space.~~

~~c. No infrastructure required for the subdivision with the exception of utility transport lines identified by the appropriate utility capital facilities plan shall be located within the floodplain.~~

~~d. Subdivisions and short subdivisions shall be designed to minimize or eliminate flood damage and impacts to floodplain functions and values. Public utilities and facilities that are installed as part of such subdivisions, such as sewer, gas, electrical, and water systems, shall be located and constructed to also minimize flood damage and impacts to floodplain functions and values. Subdivisions should be designed using natural features of the landscape and should not incorporate flood protection changes.~~

~~e. Subdivisions and short subdivisions shall have adequate natural surface water drainage to reduce exposure to flood hazards; and~~

~~f. Subdivisions and short subdivisions shall show the 100-year floodplain, floodway, and channel migration zone on the preliminary and final plat and short plat maps and designate such areas as "no-build," when applicable.~~

2. Utilities:

~~a. Infiltration of Flood Waters. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.~~

~~b. Sanitary Sewage Systems. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.~~

~~c. On-Site Waste Disposal Systems. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. New on-site sewage disposal systems are prohibited within the floodplain.~~

~~3. Residential Construction on Lots Created Prior to 1999.~~

~~a. Must Be Above Base Flood Elevation. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.~~

~~b. Areas Below the Lowest Floor. Fully enclosed areas below the lowest floor that are subject to flooding shall only be allowed when designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:~~

~~i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;~~

~~ii. The bottom of all openings shall be no higher than one foot above grade; and~~

~~iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.~~

~~c. Manufactured Homes Must Be Elevated. All manufactured homes to be placed or substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.~~

~~4. Nonresidential Construction on Lots Created Prior to 1999.~~

~~a. Above Base Flood Elevation. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:~~

~~i. Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;~~

~~ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and~~

~~iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans.~~

~~b. Areas Below the Lowest Floor. Fully enclosed areas below the lowest floor that are not floodproofed shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:~~

~~i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;~~

~~ii. The bottom of all openings shall be no higher than one foot above grade; and~~

~~iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.~~

**GC.** Performance Standards – General Requirements in High Ground Water Hazard Areas.

1. Flood Elevations. The base flood elevation for high ground water flood hazard areas corresponds to the elevation of the outer edge of the high ground water flood hazard area.
2. Delineation of the Base Flood Elevation. Applicants shall submit to the approval authority hydrologic and hydrogeologic studies as necessary to delineate the high ground water flood hazard area and the base flood elevation.
3. No development shall locate within 50 feet, measured on a horizontal plane, from the outer edge of the high ground water hazard area or extending to a ground elevation two feet above the base flood elevation, whichever is less.
4. The bottom of any infiltration facility for stormwater discharge shall be located at least six feet above the base flood elevation.

**HD.** Uses and Activities Prohibited from Frequently Flooded Areas.

1. Critical Facilities. Critical facilities are prohibited from frequently flooded areas to prevent damage to such facilities, to avoid costs that will be incurred by the public, and to maintain functionality of such facilities during flood events. If such a prohibition is unreasonable, an allowance for critical facilities in frequently flooded areas with the following specific conditions:

- a. Construction of new critical facilities shall be permissible within frequently flooded areas if no feasible alternative site is available.
- b. Critical facilities constructed within frequently flooded areas shall have the lowest floor elevated three feet or more above the level of the base flood elevation (100-year flood).
- c. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters.
- d. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

2. Wells Used for Potable Water. Water wells shall be located on high ground and are prohibited from being within the floodway.

3. On-Site Sewage Disposal Systems. On-site sewage disposal systems are prohibited from the floodway, the channel migration zone, and the 100-year floodplain elevation. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.090 Flood damage protection.**

~~A. The flood hazard areas of Yelm are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.~~

~~These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.~~

~~B. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:~~



- ~~1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;~~
- ~~2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;~~
- ~~3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;~~
- ~~4. Controlling filling, grading, and other development which may increase flood damage; and~~
- ~~5. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas.~~

~~C. General Provisions—Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for Thurston County, Washington and Incorporated Areas dated October 16, 2012,” as amended, with an accompanying Flood Insurance Rate Map, as amended, are hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study and the FIRM are on file at Yelm City Hall, 105 Yelm Avenue West, Yelm, Washington. When base flood elevation data has not been provided, the community development department shall obtain and reasonably utilize any base flood elevation and floodway data available from federal, state or other source.~~

~~D. Penalties for Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.~~

~~E. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.~~

~~F. In the interpretation and application of this chapter, all provisions shall be:~~

- ~~1. Considered as minimum requirements;~~
- ~~2. Liberally construed in favor of the governing body;~~
- ~~3. Deemed neither to limit nor repeal any other powers granted under state statutes.~~

~~G. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.~~

~~H. The community development department is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.~~

~~I. Duties of the community development department shall include, but not be limited to:~~

- ~~1. Permit Review.~~
  - ~~a. Review all development permits to determine that the permit requirements of this chapter have been satisfied;~~

~~b. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;~~

~~c. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the provisions of this chapter are met;~~

#### ~~2. Information to Be Obtained and Maintained.~~

~~a. Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection C of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement;~~

~~b. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection C of this section:~~

~~i. Verify and record the actual elevation (in relation to mean sea level) to which the structure was floodproofed; and~~

~~ii. Maintain the floodproofing certifications required in YMC 18.21.080.~~

~~c. Maintain for public inspection all records pertaining to the provisions of this chapter;~~

#### ~~3. Alteration of Watereourses.~~

~~a. Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;~~

~~b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;~~

~~4. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations provided in Chapter 18.14 YMC.~~

#### ~~J. Provisions for Flood Hazard Reduction.~~

~~1. General Standards. In all areas of special flood hazards, the standards set out in YMC 18.21.080 are required.~~

~~K. Water wells shall be located on high ground that is not in the floodway.~~

#### ~~L. Subdivision Proposals.~~

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is less.

~~MB. Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use~~

of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

**N. Tap-in Restrictions:**

1. **Applicability.** Tap-in restrictions apply to lands mapped by FEMA (Federal Emergency Management Agency) as 100-year floodplains, identified as of RD (U.S. Department of Agriculture Rural Development) funding obligation date, July 30, 1997. Tap-in restrictions will be enforced to deny future sewer connections to the system, when verification is not made by applicants that planned improvements to properties requesting connection to the system will be constructed outside the 100-year floodplain.

2. **Exceptions.** An exclusion to these tap-in restrictions will be granted for:

a. All road and utility crossing set forth in the:

i. Yelm comprehensive transportation plan (August 1992);

ii. Yelm water reuse project (July 1995);

iii. Yelm comprehensive water plan (August 1992), and

iv. The private utility planning for Yelm area (for electricity, gas, telephone, cable), as excerpted in Appendix G to the Yelm comprehensive plan (February 1995);

b. All property within the Thurston Highlands Southwest Yelm conceptual master plan, as approved October 12, 1994;

c. All lands identified after July 30, 1997 by FEMA as 100-year floodplains;

d. Lots of record within the city as described and depicted in Ordinance 595, dated January 8, 1997; and

e. Such other exceptions meeting the criteria identified in subsection (N)(3) of this section.

**3. Administration:**

a. An applicant may request from the city an administrative waiver of the tap-in restriction, where:

i. It is necessary to meet the Yelm comprehensive plan goals and policies, and

ii. The development will not result in risk to persons or property during periods of flood conditions.

b. If the city recommends a waiver, such recommendation shall be submitted to RD where the decision on the waiver shall become final.

**O. Nonresidential Construction.** All nonresidential construction shall have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy, and be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans.

Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level).

**P. Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the area of special flood hazard. Construction of new or critical facilities shall be permissible within the area of special flood hazard if no feasible alternative site is available. Critical facilities constructed within the area of special flood hazard shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at

~~the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.~~

~~Q. Recreational Vehicles. Recreational vehicles placed on sites within zones A1 through A30 and AE on the community's FIRM shall either:~~

- ~~1. Be on the site for fewer than 14 consecutive days; and~~
- ~~2. Be fully licensed and ready for highway use, on their wheels or jacking system, be attached to the site only by quick-disconnect-type utilities and security devices, and have no permanently attached additions; or~~
- ~~3. Meet the requirements of YMC 18.21.080 and the elevation and anchoring requirements for manufactured homes.~~

~~R. Floodways. Located within areas of special flood hazard established in Chapter 18.21 YMC are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:~~

- ~~1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachments shall not result in any increase in flood levels during the occurrence of base flood discharge;~~
- ~~2. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:~~
  - ~~a. Repairs, reconstruction, or improvements to a structure, which do not increase the ground floor area; and~~
  - ~~b. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either:~~
    - ~~i. Before the repair or reconstruction is started; or~~
    - ~~ii. If the structure has been damaged, and is being restored, before the damage occurred.~~
    - ~~iii. Work done on structures to comply with existing violations of state or local health, sanitary, or safety code specifications which have been identified by the administrator and which are the minimum necessary to assure safe living conditions or to structures identified as historic places shall not be included in the 50 percent determination;~~
- ~~3. If subsection (R)(1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.~~

~~S. Areas with Base Flood Elevations but No Floodways. In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~

**TB. Wetlands Management.** To the maximum extent possible, in order to avoid the short- and long-term adverse impacts associated with the destruction or modification of wetlands, especially those activities which limit or disrupt the ability of the wetland to alleviate flooding impacts, the following process should be implemented:

1. Review proposals for development within areas of special flood hazard for their possible impacts on wetlands located within the floodplain;
2. Ensure that development activities in or around wetlands do not negatively affect public safety, health and welfare by disrupting the wetlands' ability to reduce flood and storm drainage;

3. Request technical assistance from the Department of Ecology in identifying wetland areas. Existing wetland map information from the National Wetlands Inventory (NWI) can be used in conjunction with the community's FIRM to prepare an overlay zone indicating critical wetland areas deserving special attention. (Ord. 995 § 12 (Exh. A), 2015).

**18.21.100 Geologically hazardous areas.**

A. Designation of Geologically Hazardous Areas. Geologically hazardous areas include areas susceptible to erosion, sliding, earthquake, or other geological events. They pose a threat to the health and safety of citizens when incompatible development is sited in areas of significant hazard. Such incompatible development may not only place itself at risk, but also may increase the hazard to surrounding development and use.

B. Designation of Specific Hazard Areas.

1. Erosion Hazard Areas. Erosion hazard areas are at least those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service as having a "moderate to severe," "severe," or "very severe" rill and inter-rill erosion hazard. Rill or inter-rill are areas subject to sheet wash, or steep-sided channels resulting from accelerated erosion. Erosion hazard areas are also those areas impacted by shoreland and/or streambank erosion and those areas within a river's channel migration zone.

2. Landslide Hazard Areas. Landslide hazard areas are areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. Examples of these may include, but are not limited to, the following:

- a. Areas of historic failures;
- b. Areas with all three of the following characteristics:
  - i. Slopes steeper than 15 percent;
  - ii. Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
  - iii. Springs or ground water seepage;
- c. Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
- d. Slopes that are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials;
- e. Slopes having gradients steeper than 80 percent, subject to rock fall during seismic shaking;
- f. Areas potentially unstable because of rapid stream incision, streambank erosion, and undercutting by wave action;
- g. Areas that show evidence of or are at risk from snow avalanches;
- h. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
- i. Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least 10 feet of vertical relief.

3. Seismic Hazard Areas. Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past.

Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

- a. The magnitude of an earthquake;
- b. The distance from the source of an earthquake;
- c. The type of thickness of geologic materials at the surface; and
- d. The type of subsurface geologic structure.

C. Mapping of Geologically Hazardous Areas.

1. The approximate location and extent of geologically hazardous areas are shown on the adopted critical area maps.
2. These maps are to be used as a guide for the city, project applicants and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

D. Performance Standards – General Requirements.

1. Alterations of geologically hazardous areas or associated buffers may only occur for activities that:
  - a. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
  - b. Will not adversely impact other critical areas;
  - c. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
  - d. Are certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
2. Critical Facilities Prohibited. Critical facilities shall not be sited within geologically hazardous areas unless there is no other practical alternative.
3. Buffer Requirement. A buffer shall be established from all edges of landslide hazard areas. The size of the buffer shall be determined by the administrator to eliminate or minimize the risk of property damage, death, or injury resulting from landslides caused in whole or part by the development, based upon review of and concurrence with a critical area report prepared by a qualified professional.
  - a. Minimum Buffer. The minimum buffer shall be equal to the height of the slope.
  - b. Buffer Reduction. The buffer may be reduced to a minimum of 10 feet when a qualified professional demonstrates to the administrator's satisfaction that the reduction will adequately protect the proposed development, adjacent developments and uses, and the subject critical area.
  - c. Increased Buffer. The buffer may be increased where the administrator determines a larger buffer is necessary to prevent risk of damage to proposed and existing development.
4. Alterations. Alterations of an erosion or landslide hazard area and/or buffer may only occur for activities for which a hazards analysis is submitted and certifies that:
  - a. The development will not increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
  - b. The development will not decrease slope stability on adjacent properties; and

c. Such alterations will not adversely impact other critical areas.

5. Vegetation Retention. Unless otherwise provided or as part of an approved alteration, removal of vegetation from an erosion or landslide hazard area or related buffer shall be prohibited.

6. Seasonal Restriction. Clearing shall be allowed only from May 1st to October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions, except that timber harvest, not including brush clearing or stump removal, may be allowed pursuant to an approved forest practice permit issued by the city or the Washington State Department of Natural Resources.

7. Utility Lines and Pipes. Utility lines and pipes shall be permitted in erosion and landslide hazard areas only when the applicant demonstrates that no other practical alternative is available. The line or pipe shall be located above ground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide. Stormwater conveyance shall be allowed only through a high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior.

8. Point Discharges. Point discharges from surface water facilities and roof drains onto or upstream from an erosion or landslide hazard area shall be prohibited.

9. Division of Land. The division of land in landslide hazard areas and associated buffers is subject to the following:

a. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided; provided, that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer.

b. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists; and

E. Prohibited Development. On-site sewage disposal systems, including drain fields, shall be prohibited within erosion and landslide hazard areas and related buffers. (Ord. 995 § 12 (Exh. A), 2015).

#### **18.21.110 Fish and wildlife habitat conservation areas.**

##### **A. Designation of Fish and Wildlife Habitat Conservation Areas.**

1. Fish and wildlife habitat conservation areas are areas necessary for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created as designated by WAC 365-190-080(5). These areas include:

a. Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association;

i. Federally designated endangered and threatened species are those fish and wildlife species identified by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service that are in danger of extinction or threatened to become endangered.

ii. State designated endangered, threatened, and sensitive species are those fish and wildlife species native to the state of Washington identified by the Washington Department of Fish and Wildlife that are in danger of extinction, threatened to become endangered, vulnerable, or declining and are likely to become endangered or threatened in a significant portion of their range within the state without cooperative management or removal of threats.

b. State Priority Habitats and Areas Associated with State Priority Species. Priority habitats and species are considered to be priorities for conservation and management. Priority species require protective measures for their perpetuation due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. Priority habitats are those habitat types or elements with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique

vegetation type or dominant plant species, a described successional stage, or a specific structural element. Priority habitats and species are identified by the state Department of Fish and Wildlife.

c. Naturally Occurring Ponds under 20 Acres. Naturally occurring ponds are those ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those artificial ponds intentionally created from dry areas in order to mitigate impacts to ponds. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farm ponds, temporary construction ponds, and landscape amenities, unless such artificial ponds were intentionally created for mitigation.

d. Waters of the State. Waters of the state include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

e. Areas of Rare Plant Species and High Quality Ecosystems. Areas of rare plant species and high quality ecosystems are identified by the Washington State Department of Natural Resources through the Natural Heritage Program.

f. Land useful or essential for preserving connections between habitat blocks and open spaces.

2. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter and shall be managed consistent with the best available science.

3. Mapping. The approximate location and extent of habitat conservation areas are shown on the critical area maps adopted by the city.

#### B. Performance Standards – General Requirements.

1. Nonindigenous Species. No plant, wildlife, or fish species not indigenous to the region shall be introduced into a habitat conservation area unless authorized by a state or federal permit or approval.

2. Mitigation and Contiguous Corridors. Mitigation sites shall be located to preserve or achieve contiguous wildlife habitat corridors in accordance with a mitigation plan that is part of an approved critical area report to minimize the isolating effects of development on habitat areas, so long as mitigation of aquatic habitat is located within the same aquatic ecosystem as the area disturbed.

3. Approvals of Activities. The administrator shall condition approvals of activities allowed within or adjacent to a habitat conservation area or its buffers, as necessary to minimize or mitigate any potential adverse impacts. Conditions shall be based on the best available science and may include, but are not limited to, the following:

- a. Establishment of buffer zones;
- b. Preservation of critically important vegetation and/or habitat features such as snags and downed wood;
- c. Limitation of access to the habitat area, including fencing to deter unauthorized access;
- d. Seasonal restriction of construction activities;
- e. Establishment of a duration and timetable for periodic review of mitigation activities; and
- f. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

4. Mitigation and Equivalent or Greater Biological Functions. Mitigation of alterations to habitat conservation areas shall achieve equivalent or greater biologic and hydrologic functions and shall include mitigation for adverse impacts upstream or downstream of the development proposal site. Mitigation shall address each function affected by the alteration to achieve functional equivalency or improvement on a per function basis.



5. Approvals and the Best Available Science. Any approval of alterations or impacts to a habitat conservation area shall be supported by the best available science.

6. Buffers.

a. Establishment of Buffers. The administrator shall require the establishment of buffer areas for activities adjacent to habitat conservation areas when needed to protect habitat conservation areas. Buffers shall consist of an undisturbed area of native vegetation or areas identified for restoration established to protect the integrity, functions, and values of the affected habitat. Required buffer widths shall reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby and shall be consistent with the management recommendations issued by the Washington Department of Fish and Wildlife. Habitat conservation areas and their buffers shall be preserved in perpetuity through the use of native growth protection areas and critical area tracts. Native growth protection areas includes area where native vegetation is preserved for the purpose of preventing harm to property and the environment including, but not limited to, controlling surface water runoff and erosion, maintaining slope stability, buffering, and protecting plants and animal habitat.

b. Seasonal Restrictions. When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.

c. Habitat Buffer Averaging. The administrator may allow the recommended habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the management recommendations issued by the Washington Department of Fish and Wildlife, only if:

- i. It will not reduce stream or habitat functions;
- ii. It will not adversely affect salmonid habitat;
- iii. It will provide additional natural resource protection, such as buffer enhancement;
- iv. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
- v. The buffer area width is not reduced by more than 25 percent in any location.

7. Divisions of Land. The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:

- a. Land that is located wholly within a habitat conservation area or its buffer may not be subdivided.
- b. Land that is located partially within a habitat conservation area or its buffer may be divided; provided, that the developable portion of each new lot and its access is located outside of the habitat conservation area or its buffer and meets the minimum lot size requirements.
- c. Access roads and utilities serving the proposed may be permitted within the habitat conservation area and associated buffers only if the city determines that no other feasible alternative exists and when consistent with this chapter.

C. Performance Standards – Specific Habitats.

1. Endangered, Threatened, and Sensitive Species.

a. No development shall be allowed within a habitat conservation area or buffer with which state or federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable state or federal agency.

b. Whenever activities are proposed adjacent to a habitat conservation area with which state or federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the city. Approval for alteration of land adjacent to the habitat conservation area or its buffer shall not occur prior to consultation with the Washington Department of Fish and Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate federal or state agencies.

c. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules WAC 232-12-292. Whenever activities are proposed adjacent to a verified nest territory or communal roost, a habitat management plan shall be developed by a qualified professional. Activities are adjacent to bald eagle sites when they are within 800 feet or within one-half mile (2,640 feet) and in a shoreline foraging area. The city shall verify the location of eagle management areas for each proposed activity. Approval of the activity shall not occur prior to approval of the habitat management plan by the Washington Department of Fish and Wildlife.

2. Riparian Habitat Areas. Unless otherwise allowed in this chapter, all structures and activities shall be located outside of the riparian habitat area.

a. Establishment of Riparian Habitat Areas. Riparian habitat areas shall be established for habitats that include aquatic and terrestrial ecosystems that mutually benefit each other and that are located adjacent to rivers, perennial or intermittent streams, seeps, and springs.

b. A riparian habitat area width of 150 feet is established along Yelm Creek and Thompson Creek, both Type 5, intermittent streams with low mass wasting potential as defined in WAC 222-16-031.

c. Increased Riparian Habitat Area Widths. The recommended riparian habitat area widths shall be increased, as follows:

- i. When the administrator determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area;
- ii. When the frequently flooded area exceeds the recommended riparian habitat area width, the riparian habitat area shall extend to the outer edge of the frequently flooded area;
- iii. When the habitat area is within an erosion or landslide hazard area or buffer, the riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

d. Riparian Habitat Area Width Averaging. The administrator may allow the recommended riparian habitat area width to be reduced in accordance with a critical area report only if:

- i. The width reduction will not reduce stream or habitat functions, including those of nonfish habitat;
- ii. The width reduction will not degrade the habitat, including habitat for anadromous fish;
- iii. The proposal will provide additional habitat protection;
- iv. The total area contained in the riparian habitat area of each stream on the development proposal site is not decreased;
- v. The recommended riparian habitat area width is not reduced by more than 25 percent in any one location;
- vi. The width reduction will not be located within another critical area or associated buffer; and
- vii. The reduced riparian habitat area width is supported by the best available science.

e. Riparian Habitat Mitigation. Mitigation of adverse impacts to riparian habitat areas shall result in equivalent functions and values on a per function basis, be located as near the alteration as feasible, and be located in the same subdrainage basin as the habitat impacted.

f. Alternative Mitigation for Riparian Habitat Areas. The performance standards set forth in this subsection may be modified at the city's discretion if the applicant demonstrates that greater habitat functions, on a per function basis, can be obtained in the affected subdrainage basin as a result of alternative mitigation measures.

3. Aquatic Habitat. The following specific activities may be permitted within a riparian habitat area, pond, lake, water of the state, and marine habitat or associated buffer.

a. Clearing and Grading. When clearing and grading is permitted as part of an authorized activity or as otherwise allowed in these standards, the following shall apply:

i. Grading is allowed only during the dry season, which is typically regarded as beginning on May 1st and ending on October 1st of each year; provided, that the city may extend or shorten the dry season on a case-by-case basis, determined on actual weather conditions.

ii. Filling or modification of a wetland or wetland buffer is permitted only if it is conducted as part of an approved wetland alteration.

iii. The soil duff layer shall remain undisturbed to the maximum extent possible. Where feasible, any soil disturbed shall be redistributed to other areas of the project area.

iv. The moisture-holding capacity of the topsoil layer shall be maintained by minimizing soil compaction or reestablishing natural soil structure and infiltrative capacity on all areas of the project area not covered by impervious surfaces.

v. Erosion and sediment control that meets or exceeds the standards set forth in the [locally adopted stormwater management regulations] shall be provided.

b. Shoreline Erosion Control Measures. New, replacement, or substantially improved shoreline erosion control measures may be permitted in accordance with an approved critical area report that demonstrates the following:

i. Natural shoreline processes will be maintained. The project will not result in increased beach erosion or alterations to, or loss of, shoreline substrate within one-quarter mile of the project area.

ii. The shoreline erosion control measures will not degrade fish or wildlife habitat conservation areas or associated wetlands.

iii. Adequate mitigation measures ensure that there is no net loss of the functions or values of intertidal habitat or riparian habitat as a result of the proposed shoreline erosion control measures.

iv. The proposed shoreline erosion control measures do not result in alteration of intertidal migration corridors.

c. Streambank Stabilization. Streambank stabilization to protect new structures from future channel migration is not permitted except when such stabilization is achieved through bioengineering or soft armoring techniques in accordance with an approved critical area report.

d. Roads, Trails, Bridges, and Rights-of-Way. Construction of trails, roadways, and minor road bridging, less than or equal to 30 feet wide, may be permitted in accordance with an approved critical area report subject to the following standards:

i. There is no other feasible alternative route with less impact on the environment;

- ii. The crossing minimizes interruption of downstream movement of wood and gravel;
  - iii. Roads in riparian habitat areas or their buffers shall not run parallel to the water body;
  - iv. Trails shall be located on the outer edge of the riparian area or buffer, except for limited viewing platforms and crossings;
  - v. Crossings, where necessary, shall only occur as near to perpendicular with the water body as possible;
  - vi. Mitigation for impacts is provided pursuant to a mitigation plan of an approved critical area report;
  - vii. Road bridges are designed according to the Washington Department of Fish and Wildlife Fish Passage Design at Road Culverts, 1999, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000; and
  - viii. Trails and associated viewing platforms shall not be made of continuous impervious materials.
- e. Utility Facilities. New utility lines and facilities may be permitted to cross watercourses in accordance with an approved critical area report if they comply with the following standards:
- i. Fish and wildlife habitat areas shall be avoided to the maximum extent possible;
  - ii. Installation shall be accomplished by boring beneath the scour depth and hyporheic zone of the water body and channel migration zone, where feasible;
  - iii. The utilities shall cross at an angle greater than 60 degrees to the centerline of the channel in streams or perpendicular to the channel centerline whenever boring under the channel is not feasible;
  - iv. Crossings shall be contained within the footprint of an existing road or utility crossing where possible;
  - v. The utility route shall avoid paralleling the stream or following a down-valley course near the channel; and
  - vi. The utility installation shall not increase or decrease the natural rate of shore migration or channel migration.
- f. Public Flood Protection Measures. New public flood protection measures and expansion of existing ones may be permitted, subject to the city's review and approval of a critical area report and the approval of a federal biological assessment by the federal agency responsible for reviewing actions related to a federally listed species.
- g. Instream Structures. Instream structures, such as, but not limited to, high-flow bypasses, sediment ponds, instream ponds, retention and detention facilities, tide gates, dams, and weirs, shall be allowed only as part of an approved watershed basin restoration project approved by the city and upon acquisition of any required state or federal permits. The structure shall be designed to avoid modifying flows and water quality in ways that may adversely affect habitat conservation areas.
- h. Stormwater Conveyance Facilities. Conveyance structures may be permitted in accordance with an approved critical area report subject to the following standards:
- i. No other feasible alternatives with less impact exist;
  - ii. Mitigation for impacts is provided;
  - iii. Stormwater conveyance facilities shall incorporate fish habitat features; and

- iv. Vegetation shall be maintained and, if necessary, added adjacent to all open channels and ponds in order to retard erosion, filter out sediments, and shade the water.
- i. On-Site Sewage Systems and Wells.
  - i. New on-site sewage systems and individual wells may be permitted in accordance with an approved critical area report only if accessory to an approved residential structure, for which it is not feasible to connect to a public sanitary sewer system.
  - ii. Repairs to failing on-site sewage systems associated with an existing structure shall be accomplished by utilizing one of the following methods that result in the least impact:
    - (A) Connection to an available public sanitary sewer system;
    - (B) Replacement with a new on-site sewage system located in a portion of the site that has already been disturbed by development and is located landward as far as possible, provided the proposed sewage system is in compliance with local health regulations; or
    - (C) Repair to the existing on-site septic system. (Ord. 995 § 12 (Exh. A), 2015).