



Town of Yacolt
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January 29, 2018

Town Council Special Meeting / Workshop Agenda

Town Hall - 6 p.m.

- 1. Call to Order**
- 2. Flag Salute**
- 3. Roll Call**
- 4. Late Changes to the Agenda**
- 5. Workshop Subjects:**
 - A. Public Open House Regarding Proposed Changes to Yacolt's Critical Areas Laws and Development Regulations, (YMC Title 16).**
 - B. Workshop to Discuss Hiring a Town Clerk and Administrative Priorities for the Town Staff.**
 - C. Executive Session, (if desired by Town Council).**
- 6. Adjourn**

The Town of Yacolt is celebrating 109 Year.... '1908 - 2017'!!!

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Chapter 16.20
GENERAL PROVISIONS

Sections:

- 16.20.010 ~~Authority~~ Purpose.
- 16.20.020 ~~Purpose~~ Authority.
- 16.20.030 ~~Critical lands~~ Severability.
- 16.20.040 ~~Definitions~~ Administrative Rules
- 16.20.050 Administrative Rules
- 16.20.060 Interpretation
- 16.20.070 Critical lands
- 16.20.080 Best available science
- 16.20.090 Applicability
- 16.20.100 Exemptions
- 16.20.110 Reasonable use exceptions
- 16.20.120 Allowed activities
- 16.20.125 Hazard vegetation removal permit
- 16.20.130 Review required
- 16.20.140 Critical area reporting evaluation requirements
- 16.20.150 Critical area report – modifications to requirements
- 16.20.160 Modification requirements
- 16.20.170 Mitigation sequencing
- 16.20.180 Mitigation plan requirements
- 16.20.190 Innovative mitigation
- 16.20.200 Unauthorized critical area alterations and enforcement
- 16.20.210 Critical area markers, signs and fencing
- 16.20.220 Critical area protective mechanism
- 16.20.240 Bonds to ensure mitigation, maintenance, and monitoring
- 16.20.260 Definitions

16.20.010 Authority Purpose.

~~This division is adopted pursuant to the authority of the town of Yacolt under Chapter 35.63 RCW and in accordance with Chapter 36.70A RCW, implementing Substitute House Bill No. 2929, known as the Growth Management Act, and its amending legislation.~~

A. Interpretation. In the interpretation and application of this division, all provisions shall be:

- ~~1. Considered as minimum requirements;~~
- ~~2. Liberally construed in favor of the governing body; and~~
- ~~3. Deemed neither to limit nor repeal any other powers granted under state statutes. [Ord. 562 § 1, 2017; Ord. 440 § 440.00.10, 2006.]~~

A. The purpose of this division is to designate and classify ecologically sensitive and hazardous areas, and to protect these areas, their functions and values, while allowing for some reasonable use of property.

B. The town finds that critical areas provide a variety of valuable and beneficial biological and physical functions that benefit the town of Yacolt and its residents, and/or may pose a threat to human safety, or to public and private property.

C. Goals. By managing development and alteration of critical areas, this chapter seeks to:

- 1 1. Protect members of the public and public resources and facilities from injury, loss of life, or property
2 damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
- 3 2. Protect unique, fragile, and valuable elements of the environment, including ground and surface waters;
- 4 3. Direct activities not dependent on critical area resources to less ecologically sensitive sites, and mitigate
5 necessary impacts to critical areas by regulating alterations in and adjacent to critical areas; and
- 6 4. Prevent cumulative adverse environmental impacts to critical aquifer recharge and frequently flooded areas.
- 7 D. The regulations of this chapter are intended to protect critical areas in accordance with the Growth Management
8 Act, RCW 36.70A, and through the application of best available science, as determined according to WAC 365-
9 195-900 through 365-195-925, and in consultation with state and federal agencies and other qualified
10 professionals.
- 11 E. This chapter is to be administered with flexibility and attention to site-specific characteristics. It is not the intent
12 of this chapter to make a parcel of property unusable by denying its owner reasonable economic use of the
13 property.
- 14 F. The town's enactment or enforcement of this chapter shall not be construed for the benefit of any individual
15 person or group of persons other than the general public.

16
17 **16.20.020 Purpose Authority.**

18 ~~The purpose of this division is to protect the public health, safety, and welfare by protecting resource lands and~~
19 ~~critical areas. The town of Yacolt finds that development in resource lands and critical areas poses threats to the~~
20 ~~public health, safety, and welfare, to clean water, and to wildlife habitats. This division aims to protect critical areas~~
21 ~~by diverting development to less ecologically sensitive areas or regulating development in close proximity to~~
22 ~~sensitive areas to minimize detrimental impacts.~~

23 ~~This division has been designed to balance the requirements of sensitive area protection using best available science~~
24 ~~while also allowing for the potential for future growth as outlined in the Growth Management Act. [Ord. 562 § 1,~~
25 ~~2017; Ord. 440 § 440.00.20, 2006.]~~

26 As provided herein, the director shall mean the public works director or designee. The director is given the
27 authority to interpret and apply, and the responsibility to enforce this title to accomplish the stated purpose.

28 **16.20.030 Relationship to other regulations.**

- 29 A. These critical area regulations shall apply as an overlay and in addition to zoning and other regulations, including
30 the town of Yacolt Engineering Standards for Public Works Construction, adopted by the town.
- 31 B. These critical area regulations may be applied concurrently with review conducted under the State Environmental
32 Policy Act (SEPA), or other development review as adopted.
- 33 C. In the event of a conflict with any other provisions of this chapter, that which provides more protection to the
34 critical areas shall apply.
- 35 D. Compliance with the provisions of this chapter does not constitute compliance with other federal, state and local
36 regulations and permit requirements that may be required (for example, HPA permits, Army Corps of Engineers
37 Section 404 permits, NPDES permits). The applicant is responsible for complying with all requirements, apart
38 from the process established in this chapter.

39
40 **16.20.040 Severability.**

41 If any clause, sentence, paragraph, section, or part of this division, or the application thereof to any person or
42 circumstances shall be judged by any court of competent jurisdiction to be invalid, such order or judgment shall be
43 confined in its operation to the controversy in which it was rendered. The decision shall not affect or invalidate the

1 remainder of any part thereof, and to this end the provisions of each clause, sentence, paragraph, section, or part of
2 this law are declared to be severable.

3
4 **16.20.050 Administrative rules.**

5 Applicable departments within the town of Yacolt are authorized to adopt such administrative rules and
6 regulations as necessary and appropriate to implement these chapters, and to prepare and require the use of such forms
7 as necessary for its administration. The applicant shall be responsible for the initiation, preparation, submission, and
8 expense of all required reports, assessment(s), studies, plans, reconnaissance(s), peer review(s) by qualified
9 consultants, and other work prepared in support of or necessary to review the application.

10 **16.20.060 Interpretation.**

11 In the interpretation and application of the ordinance codified in this division, the provisions of this division shall
12 be considered to be the minimum requirements necessary, shall be liberally construed to serve the purpose of the
13 ordinance codified in this division, and shall be deemed to neither limit nor repeal any other provisions under state
14 statute.

15
16 **16.20.030 070 Critical lands.**

17 The following critical lands are covered under this division:

- 18 A. Critical aquifer recharge areas (CARAs);
19 B. Geologic hazard areas;
20 C. Priority habitat areas;
21 D. Wetlands;
22 E. Frequently flooded areas. [Ord. 562 § 1, 2017; Ord. 440 § 440.00.30, 2006.]

23 **16.20.080 Best available science.**

24 A. Best Available Science to be Used Must be Consistent with Criteria. The best available science is that scientific
25 information applicable to the critical area prepared by local, state, or federal natural resource agencies, a qualified
26 scientific professional, or team of qualified scientific professionals, that is consistent with criteria established in
27 WAC 365-195-900 through WAC 365-195-925.

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

31 1. Limit development and land use activities until the uncertainty is sufficiently resolved; and

32 2. Require an effective adaptive management program that relies on scientific methods to evaluate how well
33 regulatory and nonregulatory actions protect the critical area. An adaptive management program is a formal
34 and deliberate scientific approach to taking action and obtaining information in the face of uncertainty. An
35 adaptive management program shall:

36 a. Address funding for the research component of the adaptive management program.

37 b. Change course based on the results and interpretation of new information that resolves uncertainties,
38 and

39 c. Commit to the appropriate timeframe and scale necessary to reliably evaluate regulatory and
40 nonregulatory actions affecting protection of critical areas and anadromous fisheries.

41 **16.20.090 Applicability.**

1 The following proposed activities are subject to the criteria, guidelines, report requirements, conditions, and
2 performance standards in this title:

3 A. Binding site plan;

4 B. Commercial development;

5 C. Conditional use permit;

6 D. Light industrial or industrial development;

7 E. Planned residential development;

8 F. Short plat;

9 G. Subdivision;

10 H. Any grading, filling, or clearing of land, or logging or removal of timber; and

11 I. Other activities as specified within this title.

12
13 **16.20.100 Exemptions.**

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

17 1. Emergencies. Emergency activities are those activities necessary to prevent an immediate threat to public
18 health, safety, or welfare, or that pose an immediate risk of damage to private property, and that require
19 remedial or preventative action in a timeframe too short to allow for compliance with the requirements of
20 these provisions.

21 An emergency response shall utilize reasonable methods to address the emergency considering the
22 applicable critical area(s); in addition, they must have the least possible impact to the critical area or its
23 management zone. The person or agency undertaking such action shall notify the town within four days
24 following commencement of the emergency activity. If the director determines that the action taken, or any
25 part of the action taken, was beyond the scope of an allowed emergency action, then enforcement will
26 commence;

27 After the emergency, the person or agency undertaking the action shall fully restore and/or mitigate
28 any impacts to the critical area and management zones resulting from the emergency action in accordance
29 with an approved critical area report and mitigation plan. Restoration and/or mitigation activities must be
30 initiated within one year of the date of the emergency, and completed in a timely manner;

31 2. Operation, Maintenance or Repair. Operation, maintenance or repair of existing structures, infrastructure
32 improvements, utilities, public or private roads, dikes, levees or drainage systems that do not further alter
33 or increase the impact to, or encroach further within, the critical area or management;

34 3. Passive Outdoor Activities. Recreation, education, and scientific research activities that do not degrade the
35 critical area, including fishing, hiking, and bird watching; and

36 4. Forest Practices. Forest practices regulated and conducted in accordance with the provisions of Chapter
37 76.09 RCW and forest practices regulations, Title 222 WAC, and those that are exempt from the Town of
38 Yacolt's jurisdiction, provided that forest practice conversions are not exempt.

39 B. Exempt Activities Shall Avoid Impacts to Critical Areas. All exempted activities shall use reasonable methods
40 to avoid potential impacts to critical areas. To be exempt from these provisions does not give permission to
41 degrade a critical area or ignore risk from natural hazards. Any incidental damage to, or alteration of, a critical
42 area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the
43 responsible party's expense.

1 **16.20.110 – Reasonable use exception.**

2 A. If the application of this title would deny all reasonable use of the subject property, the property owner may
3 apply for an exception pursuant to this section.

4 B. Exception Request and Review Process. An application for a reasonable use exception shall be made to the town
5 and shall include a critical area application and fee; critical area report, including mitigation plan, if necessary;
6 and any other related project documents, such as permit applications to other agencies, special studies, and
7 environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW)
8 (SEPA documents). A staff report shall be prepared to include a recommendation to the approval authority based
9 on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable
10 use exception criteria in subsection D of this section.

11 C. Public Hearing Required. A request for an exception under this section shall be considered through a hearing
12 process in accordance with YMC Chapter 18.95.

13 D. Reasonable Use Review Criteria. The criteria for review and approval of reasonable use exceptions is:

14 1. The application of these provisions would deny all reasonable use of the property;

15 2. No other reasonable use of the property has less impact on the critical area;

16 3. Any alteration is the minimum necessary to allow for reasonable use of the property; and

17 4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the
18 applicant after the effective date of these provisions or its predecessor.

19 E. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application
20 and to provide sufficient information on which any decision has to be made on the application.

21 **16.20.120 Allowed activities.**

22 A. Critical Area Report Not Required. Activities which have been reviewed and permitted or approved by the town,
23 or other agency with jurisdiction, for impacts to critical or sensitive areas, do not require submittal of a new
24 critical area report or application under this chapter, unless such submittal was required previously for the
25 underlying permit.

26 B. Required Use of Best Management Practices. All allowed activities shall be conducted using the best
27 management practices, adopted pursuant to other provisions contained in this code, that result in the least amount
28 of impact to the critical areas. Best management practices shall be used for tree and vegetation protection,
29 construction management, erosion and sedimentation control, water quality protection, and regulation of
30 chemical applications. The town shall monitor the use of best management practices to ensure that the activity
31 does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area shall
32 be restored, rehabilitated, or replaced at the responsible party's expense.

33 C. Allowed Activities. The following activities are allowed:

34 1. Permit Requests Subsequent to Previous Critical Area Review. Development permits and approvals that
35 involve both discretionary land use approvals (such as subdivisions, rezones, or conditional use permits)
36 and construction approvals (such as building permits) if all of the following conditions have been met:

37 a. There have been no material changes in the potential impact to the critical area or management zone
38 since the prior review;

39 b. There is no new information available that is applicable to any critical area review of the site or
40 particular critical area;

41 c. No more than five years has elapsed since the issuance of the permit or approval; and

42 d. Compliance with any standards or conditions placed upon the prior permit or approval has been
43 achieved or secured;

- 1 2. Modification to Existing Structures. Structural modifications, additions to, or replacement of an existing
2 legally constructed structure that does not further alter or increase the impact to the critical area or
3 management zone, and where there is no increased risk to life or property as a result of the proposed
4 modification or replacement, provided that restoration of structures substantially damaged by fire, flood,
5 or act of nature must be initiated within one year of the date of such damage, as evidenced by the issuance
6 of a valid building permit, and diligently pursued to completion;
- 7 3. Activities Within the Improved Right-of-Way. Replacement, installation, or construction of utility facilities,
8 lines, pipes, mains, equipment, or appurtenances, not including substations, when such facilities are located
9 within the improved portion of the public right-of-way or a town-authorized private roadway, except those
10 activities that alter a wetland or watercourse, such as culverts or bridges, or results in the transport of
11 sediment or increased stormwater;
- 12 4. Public and Private Pedestrian Trails.
- 13 a. Existing public and private trails may be maintained, replaced, or extended, provided there is no
14 increase in the impact to the critical area or management zone.
- 15 b. Other public and private pedestrian trails, except in wetlands, fish and wildlife habitat conservation
16 areas, or their management zones, subject to the following:
- 17 i. The trail surface shall meet all other requirements including water quality standards set forth in
18 the Town of Yacolt Engineering Standards for Public Works Construction.
- 19 ii. Critical area and/or management zone widths shall be increased, where possible, equal to the
20 width of the trail corridor, including disturbed areas, and
- 21 iii. Trails proposed to be located in landslide or erosion hazard areas shall be constructed in a
22 manner that does not increase the risk of landslide or erosion, and in accordance with an
23 approved geotechnical report;
- 24 5. Selective Vegetation Removal Activities. The following vegetation removal activities are allowed without
25 a permit:
- 26 a. The removal of invasive plant species including Himalayan blackberry (*Rubus discolor*, *R. procerus*
27), Evergreen blackberry (*Rubus laciniatus*), English Ivy as well as any other noxious weed or invasive
28 plant species acknowledged by the town;
- 29 b. Invasive plant removal must be performed with hand labor and light equipment (e.g., push mowers,
30 powered trimmers, etc.);
- 31 c. Measures to control a fire or halt the spread of disease or damaging insects consistent with the State
32 Forest Practices Act; Chapter 76.09 RCW, and Clark County Fire District 13 fire department
33 requirements; provided, that the removed vegetation shall be replaced in-kind or with similar native
34 species within one year in accordance with an approved restoration plan;
- 35 d. Chemical Applications. The application of herbicides, pesticides, organic or mineral-derived
36 fertilizers, or other hazardous substances, provided that their use shall be restricted in accordance with
37 Department of Fish and Wildlife Management Recommendations, and the regulations of the
38 Department of Agriculture and the U.S. Environmental Protection Agency; More information on
39 commercial and residential use of chemicals can be found in Department of Ecology "Critical Aquifer
40 Recharge Areas: Guidance Document," Publication #05-10-028.
- 41 e. Minor Site Investigative Work. Work necessary for land use submittals, such as surveys, soil logs,
42 percolation tests, and other related activities, where such activities do not require construction of new
43 roads or significant amounts of excavation. In every case, impacts to the critical area shall be
44 minimized and disturbed areas shall be immediately restored; and
- 45 f. Navigational Aids and Boundary Markers. Construction or modification of navigational aids and
46 boundary markers.

47 **16.20.125 Hazard vegetation removal permit.**

- 1 A. Vegetation and tree removal from a critical area or its management zone must be approved by the director. An
2 application must include the following information:
- 3 1. The applicant must submit a report from a certified arborist or professional forester that documents the
4 hazard and provides a pruning plan or replanting plan for the replacement trees and vegetation. Report must
5 be prepared by a professional unaffiliated with the company proposing to remove the tree(s).
- 6 2. Tree pruning is preferred over felling. Pruning includes the removal of a hazardous branch; crown thinning
7 or crown reduction. When pruning is insufficient to address the hazard, then trees should be removed as
8 justified by a qualified professional.
- 9 a. Tree topping is prohibited. Topping is the cutting of tree branches to stubs or to lateral branches that
10 are not large enough to assume the terminal role.
- 11 b. Reduction. Reduction reduces the size of a tree, often for utility line clearance. Reducing a tree's spread
12 is best accomplished by pruning back the leaders and branch terminals to secondary branches that are
13 large enough to assume the terminal roles. Compared to topping, reduction helps maintain the form
14 and structural integrity of the tree.
- 15 c. Crown cleaning and thinning. Proper pruning opens the foliage of a tree, reduces weight on heavy
16 limbs, removes dead branches, and helps retain the tree's natural shape and height.
- 17 B. Mitigation Required. The landowner shall replace trees that are felled with new trees at a ratio of two replacement
18 trees for each tree felled within one year in accordance with an approved restoration plan.
- 19 1. Tree species that are native and indigenous to the site and a minimum caliper of two inches shall be used.
20 2. If a tree to be removed provides critical habitat, such as an eagle perch, a qualified wildlife biologist shall
21 be consulted to determine timing and methods of removal that will minimize impacts.
- 22 C. Hazard trees determined to pose an imminent threat or danger to public health or safety, or to public or private
23 property, or serious environmental degradation, may be removed by the landowner prior to receiving written
24 approval from the town; provided, that within fourteen days following such action, the landowner shall submit a
25 proof of hazard (e.g. photos) together with a restoration plan that demonstrates compliance with these provisions.

26
27 **16.20.130 Review required.**

28 Mapping. The approximate location and extent of critical areas are shown on critical area maps that are provided
29 Clark County Geographic Information Systems (a.k.a. "Maps Online"). These maps are to be used as a guide for the
30 town, project applicants, and/or property owners, and may be continually updated as new critical areas are identified.
31 They are a reference and do not provide a final critical area designation or delineation. If the proposed activity is
32 within, adjacent to (within two hundred feet), or is likely to impact a critical area, the town shall require a critical area
33 report from the applicant that has been prepared by a qualified professional. If the report concludes that there is a
34 critical area present then the town of Yacolt shall:

- 35 A. Review and evaluate the critical area report;
- 36 B. Determine whether the development proposal conforms to the purposes and performance standards of these
37 provisions;
- 38 C. Assess potential impacts to the critical area and determine if they are necessary and unavoidable; and
- 39 D. Determine if any mitigation proposed by the applicant is sufficient to protect the functions and values of
40 the critical area and public health, safety, and welfare concerns consistent with the goals, purposes,
41 objectives, and requirements of these provisions.

42 **16.20.140 - Critical area reporting evaluation—Requirements.**

- 43 A. Incorporating Best Available Science. The critical area report shall use scientifically valid methods and studies
44 in the analysis of critical area data and field reconnaissance, and reference the source of science used. The critical

1 area report shall evaluate the proposal and the likelihood of all probable adverse impacts to critical areas in
2 accordance with these provisions.

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

4 1. The name and contact information of the applicant, a description of the proposal, and identification of the
5 permit requested;

6 2. A copy of the site plan for the development proposal showing identified critical areas, management zones,
7 property lines, limits of any areas to be cleared, and a description of the proposed stormwater management
8 plan for the development and consideration of impacts to drainage alterations;

9 3. The dates, names, and qualifications of the persons preparing the report, and documentation of any
10 fieldwork performed on the site;

11 4. Identification and characterization of critical areas, wetlands, water bodies, and management zones within
12 the proposed project area;

13 5. A description of reasonable efforts made to avoid, minimize, and mitigate impacts to critical areas;

14 6. A proposal for financial guarantees to ensure compliance; and

15 7. Any additional information required for the critical area, as specified in the corresponding chapter.

16 C. Unless otherwise provided, a critical area report may be supplemented by or composed, in whole or in part, of
17 any reports or studies required by other laws and regulations, or previously prepared for and applicable to the
18 development proposal site, as approved by the director.

19
20 **16.20.150 - Critical area report—Modifications to requirements.**

21 A. Limitations to Study Area. The director may limit or extend the required geographic area of the critical area
22 report as deemed appropriate, so long as it is within the proposed site. If a wetland is located off-site and is
23 inaccessible, the best available information shall be used to determine the wetland boundary and category.

24 B. Modifications to Required Contents. The applicant may consult with the director prior to or during preparation
25 of the critical area report to obtain town written approval for modifications to the required contents of the report
26 where, in the judgment of a qualified professional, more or less information is required to adequately address the
27 probable critical area impacts and required mitigation.

28 C. Additional Information May be Required. The director may require additional information to be included in the
29 critical area report when determined to be necessary to the review of the proposed activity in accordance with
30 these provisions. Additional information that may be required, includes, but is not limited to:

31 1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and
32 summaries, and available reports and records relating to the site or past operations at the site;

33 2. Grading and drainage plans; and

34 3. Information specific to the type, location, and nature of the critical area.

35
36 **16.20.160 - Mitigation requirements.**

37 A. The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless
38 otherwise provided in these provisions, if alteration to the critical area is necessary, all adverse impacts to or
39 from critical areas and management zones resulting from a development proposal or alteration shall be mitigated
40 in accordance with an approved critical area report and SEPA documents.

41 B. Mitigation should be in-kind and on-site, when possible, and sufficient to maintain the functions and values of
42 the critical area, and to prevent risk from a hazard posed by a critical area.

1 C. Mitigation shall only be implemented after town approval of a critical area report that includes a mitigation plan;
2 and mitigation shall be in accordance with the provisions of the approved critical area report.

3
4 **16.20.170 - Mitigation sequencing.**

5 Applicants shall demonstrate that reasonable efforts have been examined with the intent to mitigate impacts to
6 critical areas. When an alteration to a critical area is proposed, mitigation can be accomplished through a variety of
7 methods. Generally, avoiding the impact altogether is the preferred option. Methods to reduce impacts and mitigate
8 for them should follow a series of steps taken in sequential order:

9 A. Avoiding the impact altogether by not taking a certain action or parts of an action (usually by either finding
10 another site or changing the location on the site);

11 B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using
12 appropriate technology, or by taking affirmative steps, such as project design, developable area
13 configuration, relocation, or timing, to avoid or reduce impacts;

14 C. Minimizing or eliminating the hazards by restoring or stabilizing the hazard area through engineered or
15 other methods;

16 D. Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during
17 the life of the action;

18 E. Compensating for the impact to critical areas by replacing, enhancing, or providing substitute resources or
19 environments;

20 F. Monitoring the hazards or other required mitigation and taking remedial action when necessary; and

21 G. Rectifying the impact to critical areas by repairing, rehabilitating, or restoring the affected environment to
22 the historical conditions, or the conditions existing at the time of the initiation of the project.

23 Following this process is referred to as mitigation sequencing, and mitigation for individual actions
24 may include a combination of the measures provided in this section.

25
26 **16.20.180 Mitigation plan requirements.**

27 When mitigation is required, the applicant shall submit to the town a mitigation plan as part of the critical area
28 report. The mitigation plan shall include:

29 A. Environmental Goals and Objectives. The mitigation plan shall include a written report identifying
30 environmental goals and objectives of the compensation proposed and including:

31 1. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the
32 purposes of the compensation measures, including the site selection criteria, identification of
33 compensation goals, identification of resource functions, and dates for beginning and completion of
34 site compensation construction activities. The goals and objectives shall be related to the functions
35 and values of the impacted critical area; and

36 2. An analysis of the likelihood of success of the mitigation project.

37 B. Performance Standards. The mitigation plan shall include measurable specific criteria for evaluating
38 whether or not the goals and objectives of the mitigation project have been successfully attained, and
39 whether or not the requirements of these provisions have been met.

40 C. Detailed Construction Plans. The mitigation plan shall include written specifications and descriptions of
41 the mitigation proposed, including but not limited to, the proposed construction sequence, timing and
42 duration; grading and excavation details; erosion and sediment control features; a planting plan specifying

1 plant species, quantities, locations, size, spacing and density; and, measures to protect and maintain plants
2 until established.

3 These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional
4 drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings
5 appropriate to show construction techniques or anticipated final outcome.

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

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

17 F. Financial Guarantees. The mitigation plan shall include financial guarantees, as determined by the approval
18 authority, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment
19 of the compensation project, monitoring program, and any contingency measures shall be posted consistent
20 with these provisions.

21
22 **16.20.190 - Innovative mitigation.**

23 The town may encourage, facilitate, and approve innovative mitigation projects. Advance mitigation or
24 mitigation banking are examples of alternative mitigation projects allowed under the provisions of this section wherein
25 one or more applicants, or an organization with demonstrated capability, may undertake a mitigation project together
26 if it is demonstrated that all of the following circumstances exist:

27 A. Creation or enhancement of a larger system of critical areas and open space is preferable to the preservation
28 of many individual habitat areas;

29 B. The group demonstrates the organizational and fiscal capability to act cooperatively;

30 C. The group demonstrates that long-term management of the habitat area will be provided;

31 D. There is a clear potential for success of the proposed mitigation at the identified mitigation site; and

32 E. Conducting mitigation as part of a cooperative process may not reduce or eliminate the required replacement
33 ratios.

34
35 **16.20.200 - Unauthorized critical area alterations and enforcement.**

36 A. When a critical area or its management zone has been altered in violation of these provisions, all ongoing
37 development work shall stop and the critical area shall be restored. The town shall have the authority to issue a
38 stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement
39 measures at the owner's or other responsible party's expense to compensate for violation of these provisions.

40 B. Restoration Plan Required. Where a violation has occurred, all development work shall remain stopped until a
41 restoration plan is submitted by the property owner and/or violator (applicant) and approved by the town. Such
42 a plan shall be prepared by a qualified professional and shall describe how the actions proposed meet the intent
43 of requirements described in subsection C of this section. The director may, at the applicant's expense, seek
44 expert advice in determining the adequacy of the plan and may impose additional requirements to mitigate critical
45 areas issues.

1 C. Minimum Performance Standards for Restoration.

2 1. For alterations to critical aquifer recharge areas and frequently flooded areas, the following minimum
3 performance standards shall be met for the restoration of a critical area, provided that if the violator can
4 demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

5 a. The historic structural and functional values shall be restored, including water quality and habitat
6 functions;

7 b. The historic soil types and configuration shall be replicated;

8 c. The critical area and management zones shall be replanted with native vegetation that replicates the
9 vegetation historically found on the site in species types, sizes, and densities; and

10 d. The historic functions and values should be replicated at the location of the alteration.

11 2. For alterations to frequently flooded and geological hazardous areas, the following minimum performance
12 standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate
13 that greater safety can be obtained, these standards may be modified:

14 a. The hazard shall be reduced to a level equal to, or less than, the predevelopment hazard;

15 b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

16 c. The hazard area and management zones shall be replanted with native vegetation sufficient to
17 minimize the hazard.

18 D. Enforcement. Violations and compliance issues under these provisions are subject to enforcement under YMC
19 Chapter 8.05, YMC Title 18, and the town's general authority to enforce laws and regulations.

20
21 **16.20.210 Critical area markers, signs and fencing.**

22 A. Temporary Markers. The outer perimeter of the management zones and/or critical areas must be marked in the
23 field in such a way as to ensure that no unauthorized intrusion will occur, and verified by the director prior to
24 the commencement of permitted activities. This temporary marking shall be maintained throughout construction,
25 and shall not be removed until installation of permanent signs, if required, or final town approval is granted.

26 B. Permanent Signs. The town may require, as a condition of any permit or authorization issued pursuant to this
27 chapter, that the applicant install permanent signs along the boundary of a critical area or management zone to
28 town standards.

29 C. Fencing. Installation of a permanent fence at the edge of the habitat conservation area, wetland buffers, or
30 management zone is required.

31 1. Fencing may be waived in the following circumstances:

32 a. The applicant demonstrates that fencing will not prevent future impacts to the habitat conservation
33 area.

34 b. The director determines that a proposed use adjoining the buffer does not pose a threat to the critical
35 area and buffer functions, or there is a public safety issue.

36 2. Fencing installed as part of a proposed activity shall be designed so as to not interfere with species migration,
37 including fish runs, and shall be constructed forty-two inches high and in a manner that minimizes habitat
38 impacts. Approved fencing styles include: vinyl-coated chain link, wooden split rail, or similar, as approved
39 by the town.

40
41 **16.20.220 Critical area protective mechanism.**

- 1 A. Identified critical areas and their associated buffer or management zones shall be protected and preserved through
2 a permanent protective mechanism acceptable to the town. This may include placing the critical area and its
3 associated buffer or management zone in a separate tract; executing a protective easement; or dedicating the
4 critical area and its associated buffer or management zone to a public agency, or public or private land trust. The
5 mechanism shall provide for maintenance of the critical area and its associated buffer or management zone.
- 6 B. If the protective mechanism includes placing the critical area and its associated buffer or management zone in a
7 separate tract, then the critical area tract(s) shall:
- 8 1. Be recorded on all documents of title of record for all affected lots;
- 9 2. Be designated on the face of the plat or recorded drawing in a format approved by the town. The designation
10 shall include the following restriction:
- 11 a. An assurance that native vegetation will be preserved for the purpose of preventing harm to property
12 and the environment, including, but not limited to, controlling surface water runoff and erosion,
13 maintaining slope stability, management zoning, and protecting plants and animal habitat; and
- 14 b. The right of the town to enforce the terms of the restriction.
- 15 C. The town may require that any required critical area tract be dedicated to the town, or held by an incorporated
16 homeowner's association or other legal entity.

17

18 **16.20.240 - Bonds to ensure mitigation, maintenance, and monitoring.**

- 19 A. When mitigation required pursuant to a development proposal is not completed prior to the town final permit
20 approval, such as final plat approval, the town shall require the applicant to post a performance bond or other
21 security in a form and amount deemed acceptable by the town. If the development proposal is subject to
22 mitigation, the applicant shall post a mitigation bond or other security in a form and amount deemed acceptable
23 by the town to ensure mitigation is fully functional.
- 24 B. The bond shall be in the amount of one hundred twenty-five percent of the estimated cost of the uncompleted
25 actions, or the estimated cost of restoring the functions and values of the critical area that are at risk, whichever
26 is greater.
- 27 C. The bond may be in the form of a surety bond, performance bond, assignment of savings account, or an
28 irrevocable letter of credit guaranteed by an acceptable financial institution with terms and conditions acceptable
29 to the town attorney.
- 30 D. Bonds or other security authorized by this section shall remain in effect until the town determines, in writing,
31 that the standards bonded for have been met.
- 32 E. Depletion, failure, or collection of bond funds shall not discharge the obligation of an applicant or violator to
33 complete required mitigation, maintenance, monitoring, or restoration.
- 34 F. Public development proposals may be relieved from having to comply with the bonding requirements of this
35 section if public funds have previously been committed for mitigation, maintenance, monitoring, or restoration.
- 36 G. Any failure to satisfy critical area requirements established by law or condition including, but not limited to, the
37 failure to provide a monitoring report within thirty days after it is due, or comply with other provisions of an
38 approved mitigation plan, shall constitute a default, and the town may demand payment of any financial
39 guarantees or require other action authorized by the town code or any other law.
- 40 H. Any funds recovered pursuant to this section shall be used to complete the required mitigation.

41

1 **16.20.040 260 Definitions.**

2 ~~“Anadromous” means fish that migrate up rivers and streams from the ocean to breed in fresh water. Species, such~~
3 ~~as salmon, which are hatched in fresh water, spend a large part of their lives in the sea, and return to fresh water~~
4 ~~rivers and streams to reproduce.~~

5 ~~“Aquifer recharge areas” means areas having a critical recharging effect on aquifers used for potable water where an~~
6 ~~aquifer that is a source of drinking water is vulnerable to contamination that would affect the certifiable potability of~~
7 ~~water (WAC 365-190-030). These areas are identified on the Yacolt Critical Lands Water Features Map, adopted~~
8 ~~herein.~~

9 ~~“Best management practices (BMPs)” means conservation practices, or system of practices and management~~
10 ~~measures that avoid or minimize adverse impacts to critical areas, combination of practices, determined by a state or~~
11 ~~other agency to be the most effective and practical means of reducing the amount of pollution from non-point~~
12 ~~sources to a level compatible with water quality goals.~~

13 ~~“Buffer zone” means an area that is contiguous to and protects a critical area, which is required for the continued~~
14 ~~maintenance, functioning, and/or structural stability of a critical area, required by this division that provides a~~
15 ~~natural vegetated zone surrounding a natural, restored, or newly created critical area, which protects the sensitive~~
16 ~~area from adverse impacts and is an integral part of the habitat ecosystem.~~

17 ~~“Conservation covenant” means an instrument recorded with the town that places certain restrictions or limitations~~
18 ~~on the affected parcel.~~

19 ~~“Critical areas” means the following areas and ecosystems as defined in RCW 36.70A.030 and described in WAC~~
20 ~~365-190-080:~~

21 1. Wetlands;

22 2. ~~Critical aquifer recharge areas~~ Areas within a Category I Recharge Area as defined by Clark County’s
23 CARA ordinance, CCC 40.410, and the Yacolt Critical Lands Water Features Map adopted herein;

24 3. Habitat conservation areas;

25 4. Frequently flooded areas;

26 5. Geologic hazard areas.

27 ~~“Enhancement” means actions performed to improve the condition and overall functions of a particular sensitive~~
28 ~~area or its corresponding buffer.~~

29 ~~“Engineer” means a professional who is licensed in the state of Washington as an engineer.~~

30 ~~“Exotic” means any species of plants or animals that are not native to the watershed. Exotic plant species are listed~~
31 ~~in Appendix A.~~

32 ~~“Frequently flooded areas” means those lands in the floodplain subject to one (1) percent or greater chance of~~
33 ~~flooding in any given year and those lands that provide important flood storage, conveyance, and attenuation~~
34 ~~functions, as determined in accordance with WAC 365-190-080 (3), flooded areas in the 100-year floodplain~~
35 ~~designations of the Federal Emergency Management Agency and the National Flood Insurance Program and other~~
36 ~~frequently flooded areas. This shall mean the same as “area of special flood hazard” as defined in Chapter 18.10-~~
37 ~~YMC.~~

38 ~~“Functions” means the beneficial roles served by a particular sensitive area.~~

39 ~~“Geologically hazardous areas” means areas lands or areas characterized by geologic, hydrologic, and topographic~~
40 ~~conditions that render them susceptible to potentially significant or severe risk of landslides, erosion, or seismic~~
41 ~~activity, that are susceptible to erosion, sliding, earthquake or other geologic events and are therefore not suited to~~

1 the development or siting of commercial, residential or industrial development consistent with public health or
2 safety concerns (Chapter 36.70A RCW). For purposes of this division the areas are as delineated on Yacolt Critical-
3 Lands Geologic Hazards Map adopted herein. The maps are based upon information developed and obtained from-
4 Clark County departments of community development and assessment and GIS. The maps are intended to meet the
5 designation listed by WAC 365-190-080 and are based on the best available information.

6 “Grading” means any movement, removal or placement of earth, rock, or ground cover by hand, mechanical or other
7 means which equals or exceeds 20 cubic yards in quantity.

8 “Intermittent stream” means surface streams with no measurable flow during 30 consecutive days in a normal water-
9 year.

10 “Mitigation” means avoiding, minimizing, or compensating for adverse impacts to critical areas, a negotiated action-
11 involving the avoidance, reduction, or compensation for possible adverse impacts. In the following order of-
12 preference this includes:

- 13 1. Avoiding the impacts altogether by not taking action;
- 14 2. Reducing or eliminating impacts by preservation or maintenance;
- 15 3. Minimizing impacts by limiting degree or magnitude of development;
- 16 4. Rectifying impacts by repairing, rehabilitating or restoring;
- 17 5. Compensating for impacts through enhancement of existing sensitive areas;
- 18 6. Compensating for impacts through creation of new sensitive areas with similar functions as those impacted;
- 19 7. Monitoring impacts by a planned evaluation process.

20 “Normal water year” means a 12 month period (October 1st through September 30th) with average precipitation-
21 based upon data from the past 50 years.

22 “Ordinary high water mark (OHWM)” means the point on the bank of a stream where the water is present often-
23 enough to leave a distinct wear mark. More specifically, the OHWM is the point on the bank or shore up to which-
24 the water, by its presence and action or flow, leaves a distinct mark indicated by erosion, destruction of or changes-
25 in vegetation or other easily recognizable characteristic.

26 “Qualified groundwater professional” means a hydrogeologist, geologist, engineer, or other scientist who meets the
27 following criteria:

- 28 • Has received a baccalaureate or post-graduate degree in the natural sciences or engineering; and
- 29 • Has sufficient training and experience in groundwater hydrology and related fields as may be
30 demonstrated by state registration, profession certifications, or completion of accredited university
31 programs that enable that individual to make sound professional judgments regarding groundwater
32 vulnerability.

33 “Steep slopes” means slopes that are, or exceed, 25 percent in a direction greater than 45 degrees east or west of true
34 south, or severe topographic relief.

35 “Streams” means those areas where surface waters flow sufficiently to produces a defined channel or bed. A defined
36 channel or bed is an area, which demonstrates clear evidence of the passage of water, and includes, but not limited
37 to, bedrock channels, gravel beds, sand and silt beds, and defined swales. The channel or bed need not contain water
38 year-round. produces a defined channel or bed at least two feet in width between the ordinary high water marks.

39 “Watershed” mean an area of topographic relief that drains to a single surface water system.

1 “Wetland” or “wetlands” means those areas that are inundated or saturated by surface water or ground water at a
2 frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of
3 vegetation typically adapted for life in saturated soil conditions.

4 Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial
5 wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches,
6 grass-lined swales, canals, retention facilities, wastewater treatment facilities, farm ponds, and landscape amenities,
7 or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a
8 road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas
9 created to mitigate conversion of wetlands. [Ord. 562 § 1, 2017; Ord. 440 § 440.00.40, 2006.]

10
11 “Wetlands Delineation Manual” means the wetland delineation procedure described in WAC 173-22-035 (as
12 amended).

Chapter 16.25

CRITICAL AQUIFER RECHARGE AREAS (CARAS)

Sections:

- 16.25.010 Introduction.
- 16.25.020 Standards.
- 16.25.030 Administration.
- 16.25.040 ~~Incentives, education, and technical assistance.~~ Enforcement

16.25.010 Introduction.

A. Purpose. This division is intended to protect public health, safety, and welfare by preventing degradation, and where possible, enhance the quality of groundwater which will be, or might likely be, used in the future for drinking water or business purposes. This will be accomplished by limiting potential contaminants within designated CARAs. The requirements of this division are intended to fulfill obligations of state law under Chapter 36.70A RCW, Growth Management – Planning by Selected Counties and Cities; Chapter 70.119A RCW, Public Water Systems – Penalties and Compliance; Chapter 246-290 WAC, Public Water Supplies; Chapter 173-303 WAC, Dangerous Waste Regulations; WAC 173-218, Underground Injection Control Program; and Chapter 173-200 WAC, Water Quality Standards for Ground Waters of the State of Washington.

B. Definitions. ~~“Critical aquifer recharge areas (CARAs)” is defined in WAC 365-190-030 as the geographical areas “where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water.” While all groundwater can potentially be negatively affected by contamination, special protection measures are necessary in areas designated as CARAs due to their critical role in protecting the drinking water supplies.~~

C. Classification of Critical Aquifer Recharge Areas.

2.

<u>CARA</u>	<u>“CARA” means Critical aquifer recharge areas are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge as defined in WAC 365-190-030.</u>
<u>Category I CARA</u>	<u>“Category I CARA” means the highest priority critical aquifer recharge area. Category I is the one-(1) year time of travel for Group A water wells, shown on the town of Yacolt Critical Aquifer Recharge Areas Map Wellhead Protection Areas Map.</u>
<u>Category II CARA</u>	<u>“Category II CARA” means the primary critical aquifer recharge area. This area consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer, both shown on Clark County’s critical aquifer recharge areas map.</u>

~~1. Category I is the highest priority critical aquifer recharge area. Category I is the one year time of travel for Group A water wells, shown on the town of Yacolt Critical Aquifer Recharge Areas Map.~~

~~2. Category II is the primary critical aquifer recharge area. This area consists of the unconsolidated sedimentary aquifer and the Troutdale gravel aquifer, both shown on Clark County’s critical aquifer recharge areas map.~~

~~3. Parcels that are partly within Category I and Category II shall be subject to the Category I provisions in this division.~~

1 ~~4. Parcels that are partly inside Category II, but outside Category I, shall be subject to the Category II-~~
2 ~~provisions in this division.~~

3 ~~DC. Map. The Yacolt Critical Lands Water Features Map identifies CARAs within the town's municipal~~
4 ~~boundaries. The Yacolt Wellhead Protection Areas map identifies CARAs within the town's municipal boundaries.~~
5 [Ord. 562 § 1, 2017; Ord. 440 § 440.10.010, 2006.]

6 D. Applicability and Exemptions.

7 1. Applicability. This chapter applies to all critical aquifer recharge areas as defined in Section 16.25.010(B).
8 Parcels that are partly within Category I and Category II shall be subject to the Category I provisions in this
9 chapter. Parcels that are partly inside Category II, but outside Category I, shall be subject to the Category II
10 provisions in this chapter.

11 2. Exempt Activities. The following activities do not require a CARA permit:

12 1. Currently existing activities that legally existed on July 31, 1997;

13 2. All residential uses other than those having activities covered by subsection B of this section;

14 3. Other uses not listed in subsection B or C of this section;

15 4. Activities already permitted and regulated by the state and the Clark County health department to incorporate
16 best management practices; and

17 5. The following underground storage tank (UST) systems, including any piping connected thereto, are exempt
18 from the requirements of this division:

19 a. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal
20 Act, or a mixture of such hazardous waste and other regulated substances;

21 b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under
22 Section 402 or 307(b) of the Clean Water Act;

23 c. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic
24 lift tanks and electrical equipment tanks;

25 d. Any UST system whose capacity is 110 gallons or less;

26 e. Any UST system that contains a de minimis concentration of regulated substances;

27 f. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;

28 g. Farm or residential UST systems of 1,100 gallons or less capacity used for storing motor fuel for
29 noncommercial purposes (i.e., not for resale);

30 h. UST systems used for storing heating oil for consumptive use on the premises where stored; except that
31 such systems which store in excess of 1,100 gallons are subject to the release reporting requirements of
32 WAC 173-360-372;

33 i. Septic tanks;

34 j. Any pipeline facility (including gathering lines) regulated under:

35 i. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.);

36 ii. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.);

37 iii. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of
38 the law referred to in subsection (A)(5)(j)(i) or (ii) of this section;

- 1 k. Surface impoundments, pits, ponds, or lagoons;
- 2 l. Stormwater or wastewater collection systems;
- 3 m. Flow-through process tanks;
- 4 n. Liquid traps or associated gathering lines directly related to oil or gas production and gathering
5 operations; or
- 6 o. Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift,
7 shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

8 **16.25.020 Standards.**

9 A. Exempt activities in Categories I and II. The following activities do not require a CARA permit:

- 10 ~~1. Currently existing activities that legally existed on July 31, 1997;~~
- 11 ~~2. All residential uses other than those having activities covered by subsection B of this section;~~
- 12 ~~3. Other uses not listed in subsection B or C of this section;~~
- 13 ~~4. Activities already permitted and regulated by the state and the Clark County health department to incorporate~~
14 ~~best management practices; and~~
- 15 ~~5. Other Exemptions. The following underground storage tank (UST) systems, including any piping connected~~
16 ~~thereto, are exempt from the requirements of this division:~~
 - 17 ~~a. Any UST system holding hazardous wastes subject to Subtitle C of the Federal Solid Waste Disposal~~
18 ~~Act, or a mixture of such hazardous waste and other regulated substances;~~
 - 19 ~~b. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under~~
20 ~~Section 402 or 307(b) of the Clean Water Act;~~
 - 21 ~~c. Equipment or machinery that contains regulated substances for operational purposes such as hydraulic~~
22 ~~lift tanks and electrical equipment tanks;~~
 - 23 ~~d. Any UST system whose capacity is 110 gallons or less;~~
 - 24 ~~e. Any UST system that contains a de minimis concentration of regulated substances;~~
 - 25 ~~f. Any emergency spill or overflow containment UST system that is expeditiously emptied after use;~~
 - 26 ~~g. Farm or residential UST systems of 1,100 gallons or less capacity used for storing motor fuel for~~
27 ~~noncommercial purposes (i.e., not for resale);~~
 - 28 ~~h. UST systems used for storing heating oil for consumptive use on the premises where stored; except that~~
29 ~~such systems which store in excess of 1,100 gallons are subject to the release reporting requirements of~~
30 ~~WAC 173-360-372;~~
 - 31 ~~i. Septic tanks;~~
 - 32 ~~j. Any pipeline facility (including gathering lines) regulated under:~~
 - 33 ~~i. The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.);~~
 - 34 ~~ii. The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.);~~
 - 35 ~~iii. Which is an intrastate pipeline facility regulated under state laws comparable to the provisions of~~
36 ~~the law referred to in subsection (A)(5)(j)(i) or (ii) of this section;~~

- 1 ~~k. Surface impoundments, pits, ponds, or lagoons;~~
- 2 ~~l. Stormwater or wastewater collection systems;~~
- 3 ~~m. Flow-through process tanks;~~
- 4 ~~n. Liquid traps or associated gathering lines directly related to oil or gas production and gathering-~~
- 5 ~~operations; or~~
- 6 ~~o. Storage tanks situated in an underground area (such as a basement, cellar, vault, mineworking drift,~~
- 7 ~~shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.~~

8 ~~B.A. Permitted Activities or facilities requiring a CARA permit in Categories I and II include the following: The~~
9 ~~following activities require a CARA permit in both Categories I and II:~~

- 10 1. Above- and below-ground storage tanks (tanks and pipes used to contain an accumulation of regulated
- 11 substances);
- 12 2. Facilities that conduct biological research;
- 13 3. Boat repair shops;
- 14 4. Chemical research facilities;
- 15 5. Dry cleaners;
- 16 6. Gasoline service stations;
- 17 7. Pipelines;
- 18 8. Printing and publishing shops (that use printing liquids);
- 19 9. Below-ground transformers and capacitors;
- 20 10. Sawmills [producing over 10,000 board feet per day];
- 21 11. Solid waste handling and processing;
- 22 12. Vehicle repair, automotive recycling and recyclable materials;
- 23 13. Funeral services;
- 24 14. Furniture stripping;
- 25 15. Motor vehicle service garages (both private and government);
- 26 16. Photographic processing;
- 27 17. Chemical manufacturing and reprocessing;
- 28 18. Creosote and asphalt manufacturing and treatment;
- 29 19. Electroplating activities;
- 30 20. Petroleum and petroleum products refining, including reprocessing;
- 31 21. Wood products preserving;
- 32 22. Golf courses;

- 1 23. Regulated waste treatment, storage, disposal facilities that handle hazardous material;
- 2 24. Medium quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste); and
- 3 25. Large quantity generators (dangerous, acutely hazardous, and toxic extremely hazardous waste).

4 CB. Prohibited Activities or facilities in Category I. The following activities are considered high-impact uses due to
5 the probability and/or potential magnitude of their adverse effects on groundwater and shall be prohibited within
6 Category I. These activities are permitted in Category II, but require a CARA permit:

- 7 1. Landfills;
- 8 2. Class V injection wells in accordance with WAC 173-218;
- 9 3. Agricultural drainage wells;
- 10 4. Untreated sewage waste disposal wells;
- 11 5. Cesspools;
- 12 6. Industrial process water and disposal wells;
- 13 7. Radioactive waste disposal;
- 14 8. Radioactive disposal sites; ~~and~~
- 15 9. Surface mining operations ~~and~~;
- 16 10. Electroplating activities.

17 [Ord. 562 § 1, 2017; Ord. 440 § 440.10.020, 2006.]

18 C. Additional Standards. The following additional standards apply in all CARAs:

19 1. Pesticides, herbicides and fertilizers shall be applied in accordance with the federal law.

20 2. Vehicle repair and servicing.

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

25 b. No dry wells shall be allowed in CARAs on sites for vehicle repair or servicing. Dry wells on the site
26 prior to the facility establishment must be abandoned using techniques approved by the Department of
27 Ecology prior to commencement of the proposed facility.

28 **16.25.030 Administration.**

29 A. ~~CARA~~ Permit Requirements.

30 1. To receive a CARA permit required by division 16.25.020, the applicant must demonstrate, through a Level
31 1 site evaluation report, how they will integrate necessary and appropriate best management practices (BMP) to
32 prevent degradation of groundwater. The applicant must also meet existing local, state, and federal laws and
33 regulations.

34 2. If an applicant wants to avoid implementation of ~~best management practices~~ BMPs, they must submit a Level
35 2 site evaluation report and develop and implement a monitoring program that:

1 a. Demonstrates how the applicant will prevent degradation to groundwater. The applicant must also meet
2 existing local, state, and federal laws and regulations; and

3 b. Includes quarterly reporting to the department. The department will evaluate the monitoring program
4 and may require periodic changes based on the monitoring results, new technology, and/or BMPs.

5 B. Level 1 Site Evaluation Report/Approval Criteria.

6 1. ~~For all proposed activities to be located in a critical aquifer recharge area, the site evaluation report shall~~
7 ~~include a Level 1 assessment by an engineer as defined in division 16.20.260. The site evaluation report shall~~
8 ~~be done by, or under the direction of, and signed by a qualified groundwater professional. The report will~~
9 ~~identify appropriate BMPs and show how they will prevent degradation of groundwater. Examples of BMPs~~
10 ~~are described in the guidance documents in YMC 16.25.040(A)(4).~~

11 2. The report will identify how the applicant will follow the requirements of the Dangerous Waste Regulations,
12 Chapter 173-303 WAC, in the event hazardous material is released onto the ground or into groundwater.

13 ~~3. The report will include site specific hydrogeologic information to support a conclusion of no degradation to~~
14 ~~groundwater. Hydrogeologic information is available from existing U.S. Geological Survey reports (A~~
15 ~~Description of Hydrogeologic Units in the Portland Basin, Oregon and Washington, Water Resources~~
16 ~~Investigation Report 90-4196); U.S. Department of Agriculture, Natural Resources Conservation Service (Soil~~
17 ~~Survey of Clark County, Washington, 1972); Clark County; the Clark County Health Department; and from~~
18 ~~local purveyors.~~

19 ~~43.~~ The report will be reviewed by the department in the same process as the primary development permit. If
20 approved, the applicant will receive a CARA permit allowing the activity on the subject property.

21 ~~54.~~ The department may waive the requirement for a ~~qualified groundwater professional~~ an engineer. This
22 would be done when the site conditions or project mitigations have been, or can be, adequately addressed in the
23 site evaluation report.

24 C. Level 2 Site Evaluation Report/Approval Criteria.

25 1. A qualified groundwater professional as defined in division 16.20.260 will determine whether the proposed
26 activity will have any adverse impacts on groundwater in CARAs. This determination must be based upon the
27 requirements of the Safe Drinking Water Act and the Wellhead Protection Area Program, Public Water
28 Supplies, Chapter 246-290 WAC; Water Quality Standards for Ground Waters of the State of Washington,
29 Chapter 173-200 WAC; WAC 173-218, Underground Injection Control Program; and Dangerous Waste
30 Regulations, Chapter 173-303 WAC. By this reference, Chapters 173-200, 173-303, and 246-290 WAC, as
31 written and hereafter updated, will be part of this division. Chapters 173-200, 173-303, and 246-290 WAC shall
32 be available for review at Town Hall. Copies shall be available for a fee at Town Hall.

33 2. The Level 2 site evaluation report will include the following:

34 a. Identification of the proposed development plan, along with potential impacts (e.g., on-site septic
35 systems and other on-site activities) that may adversely impact groundwater quality underlying or down
36 gradient of the project or project area;

37 b. Site plans or diagrams at an appropriate scale (one to 2,400 or one inch to 200 feet) showing the
38 location of abandoned and active wells, springs, and surface water bodies within 1,000 feet of the project
39 or project area; and

40 c. A description of the geologic and hydrogeologic characteristics of the subject property including the
41 following:

42 i. Lithologic characteristics and stratigraphic relationships;

- 1 ii. Aquifer characteristics including recharge and discharge areas, depth to and static water-flow
2 patterns, and an estimate of groundwater-flow velocity;
- 3 iii. Contaminant fate and transport including probable migration pathways and travel time of a
4 potential contaminant release from the site through the unsaturated zone to the aquifer(s) and through
5 the aquifer(s), and how the contaminant(s) may be attenuated within the unsaturated zone and the
6 aquifer(s);
- 7 iv. Appropriate hydrogeologic cross-sections which depict lithology, stratigraphy, aquifer, units,
8 potential or probable contaminant pathways from a chemical release, and rate of groundwater flow;
- 9 v. Existing groundwater quality; and
- 10 vi. A proposal for quarterly monitoring of groundwater quality to detect changes and a description of
11 corrective actions that will be taken if monitoring results indicate contaminants from the site have
12 entered the underlying aquifer(s).
- 13 3. The report will be reviewed by the department, in consultation with the Clark County health department
14 and/or the local water purveyor, in conjunction with the same process as the primary development permit. If
15 approved, the applicant will receive a CARA permit allowing the activity on the subject property.
- 16 4. Penalties. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with
17 any of the provisions of this division shall be subject to penalties as defined in Chapter 70.119A RCW and
18 Chapters 173-200 and 246-290 WAC. [Ord. 562 § 1, 2017; Ord. 440 § 440.10.030, 2006.]

19 **~~16.25.040—Incentives, education, and technical assistance.~~**

20 **~~A. Incentives.~~**

- 21 ~~1. Best Management Practices (BMPs). Individuals who implement BMPs to safeguard groundwater may not~~
22 ~~be required to provide additional geologic and hydrogeologic characteristics of the subject property, pursuant to~~
23 ~~YMC 16.25.030(B)(3) and (5). Individuals shall implement the Washington State Department of Ecology's~~
24 ~~stormwater, water quality, hazardous waste, wetland, and solid waste program BMPs; and BMPs from the~~
25 ~~Departments of Health, Agriculture, Transportation, and State Conservation District Office.~~
- 26 ~~2. Maintain Open Spaces. An individual may receive a tax reduction for not creating impervious surface within~~
27 ~~Category I. Open space may allow recharge to replenish the groundwater supply.~~
- 28 ~~3. Land Exchange. The purpose of land exchange is to locate high use impacts outside Category I. State~~
29 ~~agencies and local government may convey, sell, lease, or trade existing public lands in order to obtain public~~
30 ~~ownership over all or part of a CARA. Such exchanges may occur only upon agreement between the recorded~~
31 ~~landowner and state and local agencies authorized to exchange the subject land.~~
- 32 4. The following documents can be used to assist applicants in obtaining a CARA permit:
- 33 a. ~~A Guide for Prospective Well Owners (WDOE, 75-011);~~
- 34 b. ~~Guidelines for the Development of Groundwater (WDOE, 86-002);~~
- 35 c. ~~Ground Water Resource Protection: A Handbook for Local Planners and Decision Makers (WDOE, 87-~~
36 ~~003);~~
- 37 d. ~~Dry Cleaning Hazardous Waste Dos and Don'ts (WDOE, 91-012e);~~
- 38 e. ~~Electroplating (WDOE, 91-0129);~~
- 39 f. ~~Guidance for Remediation of Petroleum Contaminated Soils (WDOE, 91-030);~~

- 1 ~~g. Protecting Ground Water: A Strategy for Managing Agricultural Pesticides and Nutrients (WDOE, 91-~~
- 2 ~~042);~~
- 3 ~~h. Empty Pesticide Container Disposal (WDOE, 92 br 038);~~
- 4 ~~i. Managing Hazardous Waste for Radiator Shops (WDOE, 92 br 009);~~
- 5 ~~j. Managing Hazardous Waste for Transmission Shops (WDOE, 93 br 010);~~
- 6 ~~k. Managing Hazardous Waste for Service Stations (WDOE, 93 br 013);~~
- 7 ~~l. Managing Hazardous Waste for Tire Dealers (WDOE, 93 br 015);~~
- 8 ~~m. Surface and Ground Water on Coastal Bluffs: A Manual of Practices for Coastal Property Owners-~~
- 9 ~~(WDOE, 93-009);~~
- 10 ~~n. Tank Owners and Operators Guide to Using Ground Water Monitoring for UST Release Detection-~~
- 11 ~~(WDOE, 93-012);~~
- 12 ~~o. A Guide for Lithographic Printers (WDOE, 94-139);~~
- 13 ~~p. A Guide for Photo Processors (WDOE, 94-138);~~
- 14 ~~q. A Guide for Screen Printers (WDOE, 94-137);~~
- 15 ~~r. Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycling Facilities (WDOE,~~
- 16 ~~94-146);~~
- 17 ~~s. Prevention of Stormwater Pollution at Log Yards—Best Management Practices (WDOE, 95-053);~~
- 18 ~~t. Vehicle and Equipment Washwater Discharges—Best Management Practices (WDOE, 95-056);~~
- 19 ~~u. Best Management Practices for Auto Dealerships—Auto Wastes and Containers (WDOE, 95-405A);~~
- 20 ~~v. Best Management Practices for Auto Dealerships—Waste Processes (WDOE, 95-405B);~~
- 21 ~~w. Irrigation Best Management Practices to Protect Ground Water and Surface Water Quality (WDOE,~~
- 22 ~~96-013);~~
- 23 ~~x. Frequently Asked Questions Concerning Solvent and Cleaner Disposal (WDOE, 96-422);~~
- 24 ~~y. Management Requirements for Special Waste (WDOE, 96-1254);~~
- 25 ~~z. Drycleaners (WDOE, F-HWTR-93-541); and~~
- 26 ~~aa. Selecting Best Management Practices for Stormwater Management (WDOE, WQ-R-93-011). [Ord-~~
- 27 ~~562 § 1, 2017; Ord. 440 § 440.10.040, 2006.]~~

28 16.25.040 Enforcement.

29 A. Enforcement. It shall be unlawful to violate the provisions of this chapter. Enforcement of this chapter

30 shall be governed by YMC Chapter 13, YMC 8.05, and the town's general authority to enforce laws and

31 regulations.

32 B. Supplemental Enforcement Provisions for Water Resources Protection. In addition to civil and criminal

33 enforcement as authorized under YMC 13.10 and YMC 8.05, enforcement of this chapter may utilize the

34 following authority:

35

36

37

- 1 1. The Town of Yacolt finds that an operation not in compliance with the requirements of this
2 chapter constitutes a public nuisance under RCW 7.48, Nuisances, and YMC 8.05, Nuisances..
3
- 4 2. The Town may use field notes, observations, photo documentation, sample logs, analytical results
5 or other information to define risk and to establish that an operation is in violation of this chapter.
6
- 7 3. The Town may require the implementation of the operational or structural best management
8 practices, as defined through the provisions of this chapter. Implementation of remedies to meet
9 compliance standards shall be performed on a timeline approved by the Town.
10
- 11 4. The Town may also require the operator to sample and analyze any discharge, surface and storm
12 water, ground water and/or sediment, in accordance with sampling and analytical procedures or
13 requirements determined by the Town. If the operator is required to complete this sampling and
14 analysis, a copy of the analysis shall be provided to the Town.
15
- 16 5. The Town may impose additional requirements whenever documented specific circumstances
17 (applicable to the operation) threaten water resources.
18
- 19 6. Notwithstanding any other provisions of this chapter, whenever it appears to the Town that
20 conditions regulated by this chapter require immediate action to protect the public health and/or safety,
21 the Town is authorized to enter such property for the purpose of inspecting and investigating such
22 emergency conditions.
23
- 24 7. When necessary corrective actions are not undertaken as directed by the Town, an owner, operator
25 and/or contractor can be held liable for abatement costs to remedy noncompliance together with all costs,
26 fees, penalties, and charges described in YMC 13.10 and YMC 8.05..

1 **Chapter 16.30**
2 **GEOLOGIC HAZARD AREAS**

- 3 Sections:
4 16.30.010 Introduction.
5 16.30.020 Standards.
6 16.30.030 Administration.

7 **16.30.010 Introduction.**

8 A. Purpose. The purpose of this division is to safeguard public health, safety, and welfare by placing limitations on
9 development in geologically hazardous areas consistent with the requirements of the Growth Management Act and
10 WAC 365-190-080.

11 B. Applicability and Exemptions.

12 1. Applicability. This division applies to all construction, development, earth movement, clearing, or other site
13 disturbance which requires a permit, approval or authorization from the town in or within 100 feet of a geologic
14 hazard area except for exempt activities listed in subsection (B)(2) of this section. Regulated geologic hazards
15 include steep slope hazard areas, landslide hazard areas, ~~and~~ seismic hazard areas, and volcanic hazard areas.

16 2. Exempt Activities and Uses. The following activities and uses are exempt from the provisions of this
17 division:

18 a. Emergency activities which require immediate action to prevent an imminent threat to health, safety, or
19 property. As soon as practical, the responsible party shall provide written notification to the responsible
20 official and obtain all applicable permits;

21 b. The expansion, remodel, reconstruction, or replacement of any structures which will be set back from
22 the geologic hazard area a distance which is greater than or equal to the setback of the original structure
23 and which will not increase the building footprint by more than 1,000 square feet inside a steep slope
24 hazard area, landslide area, or their buffers;

25 c. Any replacement, operation, repair, modification, installation, or construction by a state or locally
26 franchised utility company in an improved right-of-way or utility corridor;

27 d. Normal and routine maintenance and repair of existing utility facilities, equipment, and appurtenances;

28 e. Any development activity on or within 100 feet of steep slopes that have been created through previous,
29 legal grading activities is exempt from steep slope hazard regulations; and

30 f. All forest practices other than Class IV G (conversions).

31 3. This division applies to Class IV G forest practices (conversions).

32 C. Geologic Hazard Area Maps and Designation Criteria.

33 1. Maps.

34 a. Adopted Maps. The following maps ~~are~~ is adopted by reference and in the Town of Yacolt Comprehensive
35 Growth Management Plan, are on file with the Clark County auditor: GIS Map Store produces maps for free in the
36 following link. [Critical Areas Ordinances Maps](#)
37

38 i. ~~Severe erosion hazard areas.~~ Environmental Constraints

39 ii. ~~Relative earthquake hazard map—Vancouver urban area.~~

- 1 ~~iii. Steep slopes and landslide hazards.~~
- 2 b. Identification. Geologic hazards are usually localized individual occurrences that may affect only small,
3 separate areas. In addition, activities such as grading and clearing can create or increase slope instability
4 where none was previously identified. Because of this, geologic hazard areas have not been identified on a
5 site-specific basis.
- 6 c. Source Data. The approximate location and extent of geologic hazard areas are shown on the geologic
7 hazard area maps adopted herein. Clark County will adopt updated mapping as more detailed information
8 becomes available. The maps are intended to meet the designation criteria listed in WAC 365-190-080 and
9 are based on the best available information, including:
- 10 i. Slope areas mapping for Clark County, Clark County department of assessment and GIS, and the
11 town of Yacolt;
- 12 ii. Slope Stability of Clark County, Washington State Department of Natural Resources, 1975, and
13 landslides mapped in Geologic Map of the Vancouver Quadrangle, Washington and Oregon,
14 Washington State Department of Natural Resources, 1987; ~~and~~ Construction of Liquefaction
15 Susceptibility and NEHRP Soil-type Maps for Clark County, Washington, Washington Department of
16 Natural Resources, 2004; and
- 17 ~~iii. Relative Earthquake Hazard Map for the Vancouver, Washington Urban Region, Washington State~~
18 ~~Department of Natural Resources, 1994. Volcanic hazard zonation for Mount St. Helens, Washington,~~
19 ~~U.S. Geological Survey, 1995; and~~
- 20 iv. Natural Resources Conservation Service, Soil Survey Geographic Database (SSURGO), 2004.
- 21 d. Map Updates. Results of binding predeterminations and other site investigations required under this
22 division and the building code will be compiled by the department and incorporated into future geologic
23 hazard area map revisions. The town will adopt updated maps as more detailed information becomes
24 available. The review of such new information shall include local geologists and engineers familiar with
25 the requirements of this division and how it is applied to new development.
- 26 2. Designation Criteria. Along with geologic hazard area mapping, designation criteria for steep slope hazard
27 areas, landslide areas, and seismic hazard areas are listed below. Where the geologic hazard area maps and
28 designation criteria conflict, the designation criteria shall prevail.
- 29 a. Steep slope hazard areas are areas where there is not a mapped or designated landslide hazard, but there
30 are steep slopes equal to or greater than 40 percent slope. Steep slopes which are less than 10 feet in
31 vertical height and not part of a larger steep slope system, and steep slopes created through previous legal
32 grading activity are not regulated steep slope hazard areas. The presence of steep slope suggests that slope
33 stability problems are possible.
- 34 b. Landslide hazard areas are areas that, due to a combination of slope inclination, soil type, and presence
35 of water are susceptible to landsliding in accordance with the following criteria:
- 36 i. Areas of previous slope failures including areas of unstable old or recent landslides;
- 37 ii. Areas with all three of the following characteristics:
- 38 (A) Slopes steeper than 15 percent;
- 39 (B) Hillsides intersecting geologic contacts with permeable sediment overlying a low
40 permeability sediment or bedrock; and
- 41 (C) Any springs or groundwater seepage.
- 42 iii. Areas mapped by:

1 (A) Washington State Department of Natural Resources, Open File Report: Slope Stability of
2 Clark County, as having potential instability, historical, or active landslides, or as older landslide
3 debris; and

4 (B) The Washington State Department of Natural Resources Open File Report Geologic Map of
5 the Vancouver Quadrangle, Washington and Oregon, as landslides.

6 D. Reasonable Use Assurance. Nothing in this section shall preclude the issuance of a single-family building permit
7 on a lawfully created lot. [Ord. 562 § 1, 2017; Ord. 440 § 440.20.010, 2006.]

8 **16.30.020 Standards.**

9 A. General. The following requirements for development activities in geologic hazard areas list prohibited activities,
10 buffer requirements, and setback requirements. The following section describes required buffers and setbacks, and
11 general requirements for development activities in geologic hazard areas.

12 1. Development on steep slope hazard areas is regulated to prevent potential landslide damage by placing
13 improvements away from steep slopes and leaving steep slopes in natural vegetation.

14 2. Development in landslide hazard areas is generally not allowed, and requires buffers that keep vegetation in
15 a natural state on and around the landslide hazard area.

16 3. Seismic hazards due to liquefaction, ground shaking amplification, and landslides exist for large areas of
17 Clark County. Only detailed site analysis can determine how soils and structures will respond at a particular
18 site. Site investigation requirements of the Uniform Building Code are used to ensure that structures are built to
19 minimum safety standards based on existing knowledge of earthquake hazard.

20 4. If an applicant wishes to perform development activities not allowed by subsections D and E of this section,
21 a geologic hazard area study meeting the requirements of YMC 16.30.030(C) must be completed. The
22 development proposal may be approved, approved with conditions, or denied based on the responsible
23 official's evaluation of the suitability of the mitigation measures proposed by the geologic hazard area study to
24 protect life, safety, and slope stability on abutting properties.

25 B. Erosion Requirements. All activities on hillsides subject to severe erosion hazard must minimize erosion by
26 following up to date BMPs.

27 C. Stormwater Requirements. For projects within 100 feet of steep slope hazard areas or landslide hazard areas,
28 runoff shall not be infiltrated into the ground. Runoff should be directed through a water-tight pipe beyond the base
29 of the slope or landslide area and discharged to a suitable drainage way. An energy dissipating device shall be
30 placed at the discharge point.

31 D. Steep Slope Hazard Areas.

32 1. Except for mineral extraction practices, development activity on or within 100 feet of slopes steeper than 40
33 percent that do not have a mapped or designated landslide hazard shall comply with the requirements of this
34 section.

35 2. Buffer and Setback Distances.

36 a. For slopes greater than or equal to 40 percent and less than 100 percent, buffers shall extend a distance
37 away from the toes of the slope that is equal to the vertical height of the slope divided by two, but not to
38 exceed 15 feet (Figure 16.30.020-1). For slopes less than 100 percent, the toe of the slope is defined as a
39 distinct break in slope at the base of a steep slope.

40 b. For slopes greater than 100 percent, the buffer shall extend a distance back from the toe of the slope
41 equal to the height of the slope divided by two, not to exceed 15 feet. The buffer shall be measured
42 horizontally from a plane, drawn tangent to the top of the slope at an angle of 45 degrees to the proposed
43 structure (Figure 16.30.020-3).

- 1 c. The setback shall be eight feet (8') beyond the buffer.
- 2 3. The responsible official may approve buffers and setbacks which differ from those required by subsection
3 (D)(1) of this section if the applicant submits a geologic hazard area study described in YMC 16.30.030(C),
4 which technically demonstrates and illustrates that the alternative buffer provides protection which is greater
5 than or equal to that provided by the buffer required in subsection (D)(1) of this section.
- 6 4. The responsible official may increase buffers or setbacks where necessary to meet requirement of the
7 Uniform Building Code.
- 8 5. All portions of steep slope hazard areas and steep slope buffers on the site which area planned to be
9 undisturbed by permitted development activities shall be designated as landslide protection areas in accordance
10 with this section.
- 11 6. Other than for exemptions listed in YMC 16.30.010(B) and 16.30.030(B), vegetation removal is not allowed
12 on slopes over 40 percent without an approved geologic hazard area study described in YMC 16.30.030(C).
- 13 7. Buffers, landslide protection areas, and setbacks for steep slopes on projects having approved grading shall
14 be based on regulated steep slopes that remain after that grading.

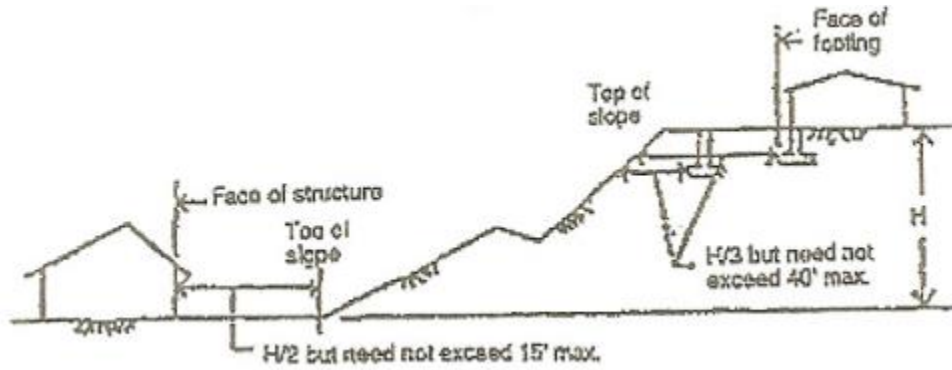
15 E. Landslide Hazard Areas.

- 16 1. A development proposal on a site containing a landslide hazard area shall meet the following requirements:
- 17 a. A minimum buffer of 50 feet shall be established from all edges of the landslide hazard area. The buffer
18 shall be extended as required to mitigate, a steep slope or erosion hazard or as otherwise necessary to
19 protect the public health, safety, and welfare; and
- 20 b. All portions of landslide hazard areas and buffers shall be designated as landslide protection areas in
21 accordance with YMC 16.30.030(B).
- 22 2. Other than exempt activities, clearing or alteration of a landslide is allowed only if the following are met:
- 23 a. A development proposal does not decrease slope stability on contiguous properties;
- 24 b. Mitigation is based on best available engineering and geological practice and is described in an
25 approved geologic hazard area study as specified in YMC 16.30.030(C).
- 26 c. Such clearing or alteration of a landslide is certified safe as designed and under anticipated conditions
27 by a registered geotechnical engineer or geologist licensed in the state of Washington.
- 28 3. Neither buffers nor a landslide protection area will be required if the activity meets the requirements of
29 subsection (E)(2) of this section.

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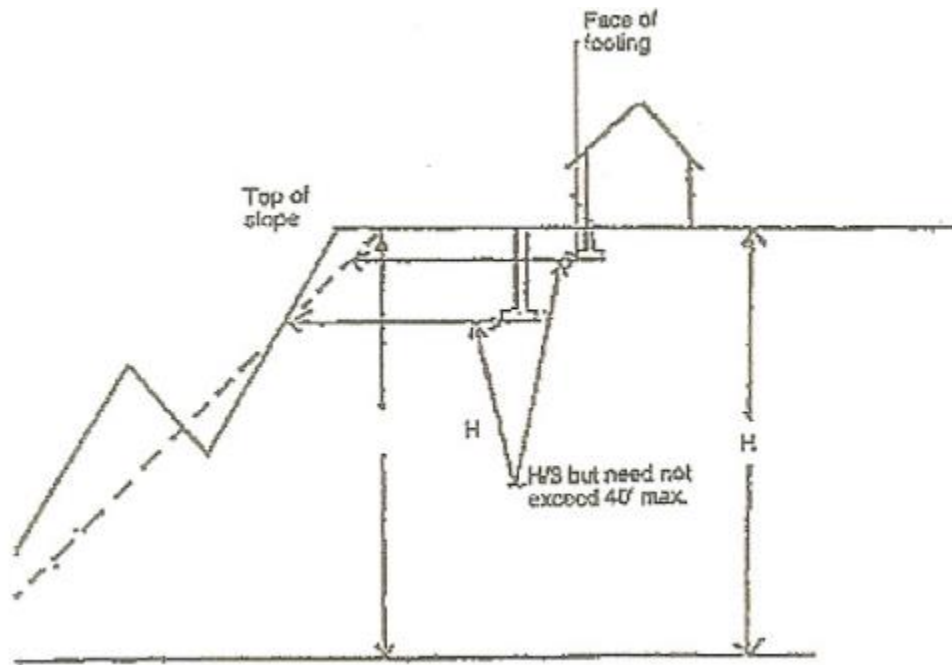
Slope Setback Diagrams

Figure 16.30.020-1



3
4

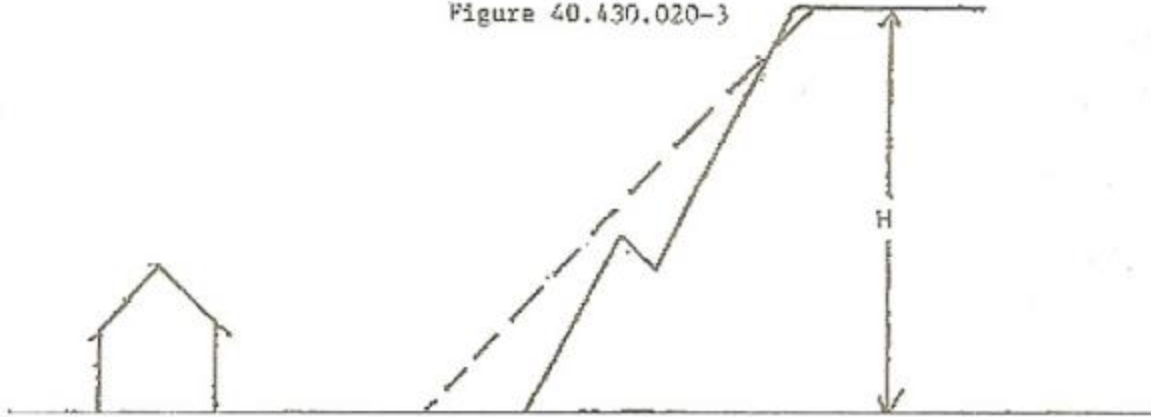
Figure 16.30.020-2



5
6

Figure 16.30.020-3

Figure 40.430.020-3



1
2

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Fully Functional (Acceptable risk is near zero)					
Potential Catastrophe If Damaged	Large dams	4	4	4	4
	Nuclear plants	4	4	4	4
	Facilities using/storing large quantities of hazardous materials	4	3	3	3

3
4

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Immediate Occupancy (Acceptable risk is very low)					
High Occupancy with Involuntary or Dependent Occupants	Daycare centers <250 kids	3	3	2	1
	Day care centers >250 kids	3	3	2	1
	Schools K-12 <300 students	3	3	2	1
	Schools K-12 >300 students	3	3	2	1
High Occupancy with Involuntary or Dependent Occupants	Convalescent homes <50 persons	3	3	2	1
	Convalescent homes >50 persons	3	3	2	1
	Jails and detention facilities	3	3	2	1
Essential for Emergency Response	Fire and police stations	3	3	3	2
	Garages for emergency vehicles	3	3	3	2
	Water tanks	3	3	3	2
	Structures housing fire suppressants	3	3	3	2
	Government communications centers	3	3	3	2

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Immediate Occupancy (Acceptable risk is very low)					
Critical to the Functioning of the Town of Yacolt	Emergency response centers	3	3	3	2
	Hospitals	3	3	3	2
	Medical buildings with surgical services	3	3	3	2
	Large power plants	3	3	3	2
	Power interties	3	3	3	2
	Sewage treatment plants	3	3	3	2
	Water plants	3	3	3	2
	Regional highways and bridges and tunnels	3	3	3	2
	Regional rail lines	3	3	3	2
	Airports	3	3	3	2
	Port facilities	3	3	3	2
	Major communications facilities	3	3	3	2
Telephone exchanges	3	3	3	2	
Radio and TV stations	3	3	3	2	

1

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Damage Control (Acceptable risk is very low)					
High Occupancy	Buildings >10-stories	3	3	3	2
	Public and private colleges <500-occupants	3	3	3	2
	Public and private colleges >500-occupants	3	3	3	2
	Public assembly places with >300-capacity	3	3	3	2
	Hotels/motels >50-rooms >60,000-feet >10 stories	3	3	3	2
	Major industries and employers	3	3	2	1
	Apartments >25-units	3	3	2	1
	Buildings with >150 employees	3	3	2	1
Important Local Impacts If Damaged	Facilities using/storing small quantities of hazardous materials	3	3	2	1
	Small dams that could cause flooding	3	3	2	1
	Gas stations	2	2	2	1

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Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Damage Control (Acceptable risk is very low)					
	Highways, streets, bridges	2	2	2	1
	Utility lines, substations, and gas mains	3	3	2	1
	Water and sewer mains	3	3	2	1
	Industries/business important to economy	2	2	2	1
	Health care clinics	2	2	2	1
	Co-generation power plants	3	3	2	1

1
2

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Substantial Life Safety (Acceptable risk is moderate)					
Moderate Occupancy	Buildings with 4 to 10 stories	3	3	2	1
	Multifamily buildings with 9 to 25 units (b)	3	3	2	1
	Buildings with 50 to 150 employees	3	3	2	1
Moderate Occupancy	Buildings with 50 to 150 employees >60,000 feet >10 stories	3	3	2	1
	Public assembly places: 50 to 300 capacity	3	3	3	2
	Hotels/motels <50 rooms <60,000 feet <10 stories	3	3	2	1
Low Occupancy	Multifamily buildings with 2 to 8 units (a)	2	2	1	1
	Buildings with <50 employees (a)	2	2	1	1
	Buildings with 1 to 3 stories (a)	2	2	1	1

Site Specific Seismic Hazard Investigation Requirements Based on a Relative Earthquake Hazard Map					
4=	Site investigation with panel peer review required.				
3=	Site investigation required unless data suggest otherwise.				
2=	Site investigation not required unless data suggest otherwise.				
1=	Site investigation not required.				
(a)	Discretion should be applied so that unnecessary site investigations are not required for smaller buildings within these categories. Guidelines to determine when investigations are needed should be established.				
(b)	Site investigation required if stipulated in a subdivision approval or other development approval of the planning agency. (Confirm definition.)				
Land Use Group	Land Uses	Relative Earthquake Hazard Zone			
		A	B	C	D
Earthquake Performance Objective Is Substantial Life Safety (Acceptable risk is moderate)					
	Public-assembly-places with <50 capacity (a)	2	2	1	1
	Single-family-houses (b)	2	2	1	1
	Manufactured-dwellings (b)	2	2	1	1

1
2 [Ord. 562 § 1, 2017; Ord. 440 § 440.20.020, 2006.]

3 **16.30.030 Administration.**

4 A. Binding Predetermination. Prior to submittal of a triggering application, a person may request from the
5 responsible official a written binding predetermination of whether a probable regulated geologic hazard area exists
6 on or within one hundred feet ~~100 feet (100')~~ of any parcel less than forty ~~(40)~~ acres. The predetermination shall be
7 binding on the responsible official for a period of three (3) years; provided, that such predetermination shall be
8 subject to administrative appeal upon its application in conjunction with a triggering application. A complete
9 predetermination shall include a list of the submittal requirements for a site description under subsection (C)(3) of
10 this section. Additional submittal requirements may later be required as a part of a geologic hazard area study under
11 subsection (C)(4) of this section if the proposal intends to develop within a steep slope or landslide hazard area, or
12 their buffers.

13 B. Establishment of Landslide Protection Areas.

- 14 1. Steep slope hazard areas and landslide areas and buffers for which permanent protection is required pursuant
15 to YMC 16.30.020(D) and (E) shall be designated landslide protection areas.
- 16 2. Landslide protection area requirements apply only to site plans and land divisions.
- 17 3. For all development activities subject to this section, landslide protection areas shall be delineated on binding
18 site plans and plots which shall be recorded with the Clark County auditor.
- 19 4. A conservation covenant applicable to the designated landslide protection area shall be recorded in a form
20 approved by the prosecuting attorney as adequate to incorporate the restrictions of this division.

1 5. Prior to any site development activity, the applicant shall mark with temporary markers in the field the
2 boundary of all landslide protection areas required by this division, or the limits of the proposed site
3 disturbance outside of the landslide protection areas, using methods and materials acceptable to the Town of
4 Yacolt.

5 6. Landslide protection area boundaries shall be permanently marked on the site prior to final inspection by
6 ~~Clark County~~ using methods and materials acceptable to the Town of Yacolt.

7 7. Vegetation clearing requirements for development in landslide protection areas, steep slope hazard areas, and
8 landslide hazard areas:

9 a. Clearing or vegetation removal in landslide protection areas, steep slope hazard areas, or landslide
10 hazard areas or their buffers is prohibited except for:

11 i. Activities included in an approved geologic hazard area study as defined in subsection C of this
12 section;

13 ii. Limited vegetation removal for surveying and testing necessary for development approvals;

14 iii. Emergency or fire hazard removal authorized by the District fire chief;

15 iv. Removal of nuisance vegetation using methods which minimize disruption of soil and non-nuisance
16 vegetation;

17 v. Clearing necessary for placement or maintenance of fencing;

18 vi. Clearing necessary for hillside vegetation restoration;

19 vii. Clearing necessary for vegetation or resource conservation projects authorized by a public agency;
20 and

21 viii. Clearing for three-foot-wide or narrower foot paths surfaced with wood, soil, or gravel.

22 b. Proposals for clearing may also be subject to other critical areas regulations. Wildlife habitat near
23 streams, which have clearing requirements under the habitat conservation regulations, often overlap with
24 steep slopes included in geologic hazard areas.

25 C. Submittal Requirements.

26 1. For development activity regulated by this division, submittal requirements will vary depending on the type
27 of project and the type of hazard mitigations that are proposed. A review of a geologic hazard area will be
28 conducted in conjunction with the primary development application. Projects are required to submit a basic site
29 description sufficient to verify that the location of proposed building and access road improvements comply
30 with buffers, setbacks, and vegetation preservation required by YMC 16.30.020(D) and (E). If a regulated
31 activity is proposed within a geologic hazard area, additional information in the form of a geologic hazard area
32 study must be provided to assure the project is feasible and will not cause an increased geologic hazard. The
33 information required for a site description is included in subsection (C)(3) of this section. The requirements for
34 a geologic hazard area study for projects wishing to build in a geologic hazard area are included in subsection
35 (C)(4) of this section. ~~To avoid duplication, the information required by this section shall be coordinated by~~
36 ~~Clark County with the assessments and requirements for other associated permits.~~

37 2. The responsible official shall waive parts of these submittal requirements if it is determined that they are not
38 applicable to the proposed activity.

39 3. Site Description. As part of the development permit application, the following information describing the
40 subject property and areas within 25 feet of the property lines or smaller area of concern as deemed appropriate
41 by the responsible official, drawn to an engineering scale no larger than one inch equals 20 feet and no smaller
42 than one inch equals 100 feet as deemed appropriate by the responsible official:

- 1 a. The site boundary lines;
 - 2 b. The topography at contour interval of no greater than five feet;
 - 3 c. The location and size of all existing and proposed site improvements including structures, wells,
4 drainfields, drainfield reserve areas, public and private right-of-way easements, and utilities;
 - 5 d. The location of all drainage-flow characteristics, streams, groundwater seeps, springs, and evidence of
6 seasonal surface water runoff or groundwater;
 - 7 e. The location and extent of all existing and proposed grading activities and existing natural or artificial
8 drainage control facilities and systems;
 - 9 f. The location and description of all geologic hazards located on the site and observed on properties
10 within 100 feet of site boundaries;
 - 11 g. The general location of all vegetation and the general location, number, and description of all trees over
12 six-inch diameter measured three feet above the ground; and
 - 13 h. The location of all proposed buffers and setbacks.
- 14 4. Geologic Hazard Area Study. A geologic hazard area study is required if the proposed development does not
15 comply with requirements of YMC 16.30.020(D), Steep Slope Hazard Areas, or 16.30.020(E), Landslide
16 Hazard Areas. Geologic investigation may also be required in some cases to meet Uniform Building Code
17 requirements for foundations and for seismic design. Geologic hazard area studies shall be prepared, stamped,
18 and signed by a licensed geotechnical engineer or geologist. Based on the site characteristics and the
19 information submitted by the applicant, the responsible official may require all or part of the following
20 information to be included in a geotechnical report:
- 21 a. The requirements for the site description listed above in subsection (C)(3) of this section;
 - 22 b. Site geology information:
 - 23 i. Topographic contours at two-foot intervals or as specified by the responsible official;
 - 24 ii. Subsurface data that includes the exploration method, location of soil borings, borings, logs, soil and
25 rock stratigraphy, and groundwater levels including seasonal changes;
 - 26 iii. The location of landslides, or down-slope soil movement, faults, and geologic contacts on the
27 subject property and adjacent properties;
 - 28 iv. A site history that describes any prior grading, soil instability, or slope failure; and
 - 29 v. A description of the site vulnerability to seismic events.
 - 30 c. Geotechnical information and plan requirements:
 - 31 i. A slope stability study and opinion of slope stability on the subject property and adjacent properties;
 - 32 ii. Grading plan;
 - 33 iii. Structural foundation requirements and estimated foundation settlements;
 - 34 iv. Soil compaction criteria;
 - 35 v. Allowable soil-bearing pressure for foundations, minimum footing widths, piling recommendations
36 for foundations, and design pressure for retaining walls;
 - 37 vi. Laboratory data and soil index properties for soil samples;

- 1 vii. Suitability for fill;
- 2 viii. Lateral earth pressures;
- 3 ix. Description of erosion vulnerability and an erosion control plan;
- 4 x. An evaluation of proposed surface and subsurface drainage in a stormwater control plan;
- 5 xi. Building limitations; and
- 6 xii. A vegetation management and restoration plan or other means for maintaining long-term stability
- 7 of slopes;
- 8 d. A site evaluation that describes the suitability of the site to accommodate the proposed activity; and
- 9 e. Such additional information describing existing physical features for the site and surrounding area as
- 10 required by the responsible official to complete review of the project under standards of the Uniform
- 11 Building Code. [Ord. 562 § 1, 2017; Ord. 440 § 440.20.030, 2006.]

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Chapter 16.35

FREQUENTLY FLOODED AREAS

Sections:

- 16.35.010 Introduction.
- 16.35.020 Standards.
- 16.35.030 Administration.

16.35.010 Introduction.

A. Purpose. It is the purpose of this division to safeguard public health, safety and welfare by placing limitations on development in areas susceptible to flood waters consistent with the requirements of the Growth Management Act and WAC 365-190-080. †

- ~~1. Protect human life and health;~~
- ~~2. Minimize expenditure of public money and 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, streets, and bridges located in areas of special flood hazard;~~
- ~~6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize future flood blight areas;~~
- ~~7. Ensure that potential buyers are notified that property is in a flood area; and~~
- ~~8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.~~

B. Applicability.

- ~~1. Land to Which This Division Applies. This division shall apply to all flood hazard areas within the jurisdiction of the town of Yacolt. This division applies to all development in identified special flood hazard areas within the Town of Yacolt. After the adoption of this division, no structure shall hereafter be constructed, substantially improved, located, extended, converted, or replaced, nor any land altered without full compliance with the terms of this division and other applicable regulations.~~
- ~~2. Basis for Establishing the Base Flood Elevations. The base flood elevations identified by Gibbs and Olson Inc. in the map entitled “Town of Yacolt Base Flood Elevations” (dated July 11, 2007) and any revisions thereto are adopted by reference and declared to be a part of this division. This division is not intended to repeal or impair any existing easements, covenants or deed restrictions.~~
- ~~3. Basis for Establishing the Flood Hazard Areas. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled “The Flood Insurance Study for Clark County” (effective August 2, 1982 and revised July 19, 2000) and accompanying maps and any revisions thereto are adopted by reference and declared to be a part of this division. The flood insurance study is on file with the Clark County community development department. In the interpretation and application of this division, all provisions shall be:~~
 - 1. Considered as minimum requirements;
 - 2. Liberally construed to achieve the purposes of this chapter; and

1 3. Deemed neither to limit nor repeal any other powers granted under state statutes.

2 ~~4. Floodplain Overlay District (FP). A floodplain overlay district (FP) is established and shall be applied to all~~
3 ~~100 year floodplains identified on the flood insurance study maps, which have been adopted by reference under~~
4 ~~subsection (B)(2) of this section. The land use and siting provisions of these areas shall be in addition to other~~
5 ~~zoning provisions applied. Two distinct areas are recognized within the FP district, as follows:~~

6 ~~a. Floodway Area. The floodway includes the channel of a river or other watercourse and land areas within~~
7 ~~100 feet that must be reserved in order to discharge the base flood without cumulatively increasing the~~
8 ~~water surface elevation more than one foot. For areas of special flood hazard studied in detail, the~~
9 ~~floodway boundary is delineated upon the flood insurance study maps. In all other areas of special flood~~
10 ~~hazard, the floodway boundary shall be determined by the use of other base flood data, as described in~~
11 ~~YMC 16.35.030(D)(2).~~

12 ~~b. Floodway Fringe Area. The floodway fringe is the land area between the boundary of the floodway and~~
13 ~~the limits of the 100 year floodplain. In those special flood hazard areas where the floodway boundary is~~
14 ~~not delineated upon flood insurance study maps, the floodway fringe area shall be determined by the use~~
15 ~~of other base flood data, as described in YMC 16.35.030(D)(2).~~

16 4. Federal Flood Insurance Program. The Council assures the Federal Insurance Administration that it will take
17 legislative action needed to meet the requirements of the National Flood Insurance Regulations and will take
18 such other appropriate official actions as may be reasonably necessary to carry out the requirements of the
19 program.

20 5. This division is not intended to repeal or impair any existing easements, covenants or deed restrictions.

21 ~~C. Relationship to Other Requirements. Land uses in flood hazard areas shall be subject to all relevant local, state,~~
22 ~~or federal regulations including those of the underlying zoning district. Where applicable, permit requirements~~
23 ~~under the Shore line Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16~~
24 ~~RCW) may be substituted for permits required under this division; provided, that the standards of this division~~
25 ~~are applied.~~

26
27 C. Definitions. For the purposes of this chapter, the following definitions shall apply:
28

<u>Base flood</u>	<u>“Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year and is also referred to as the one-hundred-year (100-year) flood.</u>
<u>Base flood elevation</u>	<u>“Base flood elevation” means the height in relation to the North American Vertical Datum (NAVD) 1988 expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.</u>
<u>Basement</u>	<u>“Basement” means any area of the building having its floor subgrade below ground level on all sides.</u>
<u>Critical facility</u>	<u>“Critical facility” means the following:</u> <ul style="list-style-type: none"><u>• Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;</u><u>• Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;</u><u>• Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during and after a flood; and</u>

	<ul style="list-style-type: none"> • <u>Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.</u>
<u>Development</u>	<p>“Development” means, in addition to the definition in YMC 18.10.010:</p> <ul style="list-style-type: none"> • <u>Storage of equipment and materials.</u>
<u>Elevation certificate</u>	<p>“Elevation certificate” means the official form (FEMA 81-31) used to record the elevation of a structure on a given property relative to the NAVD 1988.</p>
<u>Encroachment</u>	<p>“Encroachment” means the intrusion of any building, structure, vegetation, fill, excavation, or other development or use into a special flood hazard area which may impede or alter the flow through or storage capacity of a special flood hazard area.</p>
<u>FEMA</u>	<p>“FEMA” means the Federal Emergency Management Agency.</p>
<u>Flood or flooding</u>	<p>“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:</p> <ul style="list-style-type: none"> • <u>The overflow of inland waters, and/or</u> • <u>The unusual and rapid accumulation of runoff of surface waters from any source.</u>
<u>Flood Insurance Rate Maps</u>	<p>“Flood Insurance Rate Maps” (FIRMs) mean 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 county.</p>
<u>Flood Insurance Study</u>	<p>“Flood Insurance Study” means an official report published by FEMA in conjunction with the community’s Flood Insurance Rate Maps (FIRMs). The study contains such background data as the base flood discharges and water surface elevations that were used to prepare the FIRMs.</p>
<u>Floodproofing</u>	<p>“Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damages to lands, water and sanitary facilities, and structures and their contents.</p>
<u>Floodway</u>	<p>“Floodway” means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.</p>
<u>Lowest floor</u>	<p>“Lowest floor” means the lowest floor of the lowest enclosed area (including the basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles or for building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of division 16.35.020 (B)(2).</p>
<u>Special flood hazard area, or floodplain</u>	<p>“Special flood hazard area” or “floodplain” means any land area subject to a one percent (1%) or greater chance of flooding in any given year.</p>

<u>Start of construction</u>	<u>“Start of construction” means, in addition to the definition in YMC 18.10.010, for a substantial improvement, 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.</u>
<u>Structure</u>	<u>“Structure” means, in addition to the definition in YMC 18.10.010:</u> <ul style="list-style-type: none"> • <u>A gas or liquid storage tank that is principally above ground;</u> • <u>A manufactured home.</u>
<u>Substantial damage</u>	<u>“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.</u>
<u>Substantial improvement</u>	<u>“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which is equal to or greater than fifty percent (50%) of the market value of the structure either:</u> <ul style="list-style-type: none"> • <u>Before the improvement or repair is started; or</u> • <u>If the structure has been damaged and is being restored, before the damage occurred.</u> <u>Substantial improvement can exclude:</u> <ul style="list-style-type: none"> • <u>Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been identified by a code enforcement official and which are the minimum necessary to assure safe living conditions; or</u> • <u>Any alteration of a structure listed on the National Register of Historic Places or the Clark County Heritage Register.</u>

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2 ED. Relationship to Other Requirements. Land uses in flood hazard areas shall be subject to all relevant local, state,
3 or federal regulations including those of the underlying zoning district. Where applicable, permit requirements under
4 the Shoreline Management Act (Chapter 90.58 RCW), or the State Flood Control Zone Act (Chapter 86.16 RCW)
5 may be substituted for permits required under this division; provided, that the standards of this division are applied.

6 D. Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without
7 full compliance with the terms of this division and other applicable regulations.

8 E. Abrogation and Greater Restrictions. This division is not intended to repeal or impair any existing easements,
9 covenants, or deed restrictions. However, where this division and another code, ordinance, easement, covenant, or
10 deed restriction conflict or overlap, that which imposes the more stringent restrictions shall prevail.

11 E. Flood Insurance Study and Maps.

12 a. The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a report
13 entitled “Flood Insurance Study, Clark County, Washington and Incorporated Areas” (FIS), effective January 19,
14 2018, and accompanying Flood Insurance Rate Maps (FIRMs) and any revisions thereto are hereby adopted by
15 reference. The FIS and the FIRMs are on file with the Clark County Public Works Department.

16 b. For the FIS and the FIRMs, the vertical datum was converted from the National Geodetic Vertical Datum of
17 1929 (NGVD29) to the North American Vertical Datum of 1988 (NAVD88). In addition, the Transverse Mercator,
18 State Plane coordinates, previously referenced to the North American Datum of 1927 (NAD27), are now referenced
19 to the North American Datum of 1983 (NAD83).

20 c. The best available information for flood hazard area identification as outlined in division 16.35.E shall be the
21 basis for regulation until new information is incorporated into the FIRMs.

22

23 F. Warning and Disclaimer of Liability. The degree of flood protection required by this division is considered
24 reasonable for regulatory purpose, and is based upon scientific and engineering considerations. Larger floods can

1 and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This division does
2 not imply that land outside special flood hazard areas, or uses permitted within such areas, will be free from flooding
3 or flood damages. This division shall not create liability on the part of the town of Yacolt, any officer or employee
4 thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this
5 division or any administrative decision lawfully made hereunder. [Ord. 562 §§ 1, 2, 2017; Ord. 454 § 440.30.010,
6 2007; Ord. 440 § 440.30.010, 2006.]

7 **16.35.020 Standards.**

8 ~~A. Regulation of Uses in the Floodplain Overlay (FP) District. Uses.~~

9 ~~1. Park, recreational, agricultural, and other similar open space uses allowed in the underlying zoning district,~~
10 ~~and not involving structures, fill, or storage of equipment, are permitted outright in the FP district.~~

11 ~~2. Construction or reconstruction of residential structures is prohibited in the floodway, except in accordance~~
12 ~~with Chapter 86.16 RCW for:~~

13 ~~a. Repairs, reconstruction, or improvements to a structure which do not increase the ground floor area;~~

14 ~~b. Repairs, reconstruction, or improvements to a structure the cost of which does not exceed 50 percent of~~
15 ~~the market value of the structure, either:~~

16 ~~i. Before the repair or reconstruction or improvement is started; or~~

17 ~~ii. If the structure has been damaged, and is being restored, before the damage occurred; provided, that~~
18 ~~any project for improvement of a structure to correct existing violations of state or local health,~~
19 ~~sanitary, or safety code specifications which have been identified by a code enforcement official or~~
20 ~~designee and are the minimum necessary to assure safe living conditions or to structures identified as~~
21 ~~historic places shall not be included in the 50 percent determination;~~

22 ~~e. Travel trailers and recreational vehicles subject to the provisions set forth in subsection (B)(2)(d) of this~~
23 ~~section; and~~

24 ~~d. New construction, which for the purposes of this division shall mean structures for which construction~~
25 ~~begins on or after March 21, 1982.~~

26 ~~3. Uses Allowed with Floodplain Review.~~

27 ~~a. Any use other than those permitted outright in a floodway pursuant to subsection (A)(1) or (2) of this~~
28 ~~section shall be subject to the terms of a floodplain review under YMC 16.35.030.~~

29 ~~b. All other uses permitted in the zoning district with which the FP district has been combined are allowed~~
30 ~~in the floodway and floodway fringe areas, subject to the terms of a floodplain review under YMC~~
31 ~~16.35.030.~~

32 1. Allowed uses in special flood hazard areas.

33 a. Development may be allowed for those uses in underlying zoning district with a flood hazard permit
34 pursuant to YMC 16.35.030 (C).

35 b. Park, recreational, agricultural, and other similar open space uses allowed in the underlying zoning district,
36 which do not involve development as defined in this division, are permitted outright in special flood hazard
37 areas.

38 2. Prohibited uses in special flood hazard areas.

39 a. Construction or reconstruction of residential structures is prohibited in the floodway, except in accordance
40 with Chapter RCW 86.16 for repairs, reconstruction, or improvements to a lawfully-established structure:

41 1.. Which do not increase the ground floor area; and

42 2.. That are not a substantial improvement.

43 b. Floodway encroachments are prohibited unless certification by an Engineer as defined in YMC 16.20.250
44 is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard
45 engineering practice that encroachments shall not result in any increase in flood levels during the occurrence

1 of the base flood discharge. If it has been adequately demonstrated through calculations that the
2 encroachment will not result in increased flood levels, all new nonresidential construction and nonresidential
3 substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.
4 3. Special Flood Hazard Area with Base Flood Elevation but No Floodways. In areas with base flood
5 elevation but where a regulatory floodway has not been designated, no new construction, substantial
6 improvements, or other development (including fill) shall be permitted within Zone AE, unless it is
7 demonstrated that the cumulative effect of the proposed development, when combined with all other existing
8 and anticipated development, will not increase the water surface elevation of the base flood more than one (1)
9 foot at any point in the town.

11 B. General Construction Standards in Flood Hazard Areas.

12 1. ~~General Standards.~~ In all special flood hazard areas, the following standards are required:

13 a. Anchoring, in accordance with FEMA requirements.

14 i. All new construction and any substantial improvements shall be anchored to prevent flotation,
15 collapse, or lateral movement of the structure.

16 ii. All manufactured homes must likewise be anchored to prevent flotation, collapse, or lateral
17 movement, and shall be installed using methods and practices that minimize flood damage. Anchoring
18 methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors, and
19 additional techniques referenced in the current FEMA's "Manufactured Home Installation in Flood-
20 Hazard Areas" guidebook FEMA P-85, Protecting Manufactured Homes From Floods and Other
21 Hazards.

22 b. Construction Materials and Methods, in accordance with FEMA Technical Bulletin 2.

23 i. All new construction and any substantial improvements shall be constructed with materials and
24 utility equipment resistant to flood damage.

25 ii. All new construction and any substantial improvements shall be constructed using methods and
26 practices that minimize flood damage.

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

30 c. Utilities.

31 i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration
32 of floodwaters into the system;

33 ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate
34 infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

35 iii. On-site waste disposal systems shall be located or designed to avoid impairment to them or
36 contamination from them during flooding.

37 iv. Water wells shall not be located in the floodway or areas subject to ponding.
38

39 d. Subdivision Proposals shall identify lots and portions of lots in special flood hazard areas as part of
40 preliminary plat submittal:

41 i. ~~All subdivision proposals shall be~~ designed to minimize flood damage;

1 ii. ~~All subdivision proposals shall h~~Have any public utilities and facilities such as sewer, gas, electrical,
2 and water systems located and constructed to minimize flood damage;

3 iii. ~~All subdivision proposals shall h~~Have adequate drainage provided to reduce exposure to flood
4 damage; ~~and~~

5 iv. ~~Where base flood elevation data has not been provided or is not available from another authoritative~~
6 ~~source, it shall be provided by the applicant for subdivision proposals and other proposed development~~
7 ~~which contain at least 50 lots or five acres (whichever is less). Have roadways designed such that, in~~
8 ~~the event of a one hundred- (100) year flood, one (1) travel lane in either direction shall not be covered~~
9 ~~by more than six (6) inches of water, and~~

10 v. Have adequate drainage provided to reduce exposure to flood damage.

11 e. ~~Review of Building Permits. Where elevation data is not available either through the flood insurance-~~
12 ~~study or from another authoritative source, applications for building permits shall be reviewed to assure-~~
13 ~~that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be a~~
14 ~~judgment of the public works supervisor who shall consider historical data, high water marks, photographs~~
15 ~~of past flooding, etc., where available. Failure to elevate the lowest floor at least two feet above average-~~
16 ~~grade in these zones may result in higher insurance rates.—~~

17 2. Specific Construction Standards. In all special flood hazard areas, once ~~where~~ base flood elevation data has
18 been provided as required ~~set forth~~ in YMC 16.35.010(B)(2), or 16.35.030(D)(2), ~~Use of Other Base Flood-~~
19 ~~Data~~, the following provisions are required:

20 a. Residential Construction.

21 i. New residential construction and substantial improvement of any residential structure shall have the
22 lowest floor, including the basement, elevated to at least one (1) foot above base flood elevation.

23 ii. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, unless ~~or-~~
24 ~~shall be~~ designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for
25 the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a
26 registered licensed professional engineer as defined in division 16.20.260 or must meet or exceed the
27 following minimum criteria:

28 (A) A minimum of two openings having a total net area of not less than one square inch for
29 every square foot of enclosed area subject to flooding shall be provided;

30 (B) The bottom of all openings shall be no higher than one foot above grade; and

31 (C) Openings may be equipped with screens, louvers, or other coverings or devices; provided,
32 that they permit the automatic entry and exit of floodwaters.

33 iii. Below-Grade Crawl Spaces.

34 (1) Below-grade crawl spaces will not be considered basements if constructed to the following
35 criteria:

36 (a) The interior grade of the crawl space is not more than two (2) feet below the lowest adjacent
37 exterior grade.

38 (b) The height of the below-grade crawl space, measured from the interior grade of the crawl
39 space to the top of the crawl space foundation wall, must not exceed four (4) feet at any point. The
40 height limitation is the maximum allowable unsupported wall height according to the engineering
41 analyses and building code requirements for flood hazard areas.

- 1 (c) There must be an adequate drainage system that removes floodwaters from the interior area of
2 the crawl space.
- 3 (d) The velocity of floodwaters at the site should not exceed five (5) feet per second for any
4 crawl space. For velocities in excess of five (5) feet per second, other foundation types should be
5 used.
- 6 (e) Utility systems within the crawl space, particularly ductwork, must be elevated above the base
7 flood elevation, or designed so that floodwaters cannot enter or accumulate within system
8 components, or be damaged during flood conditions.
- 9 (f) All insulation must be located above the base flood elevation.
- 10 (2) Buildings that have below-grade crawl spaces may have higher flood insurance premiums than
11 buildings that have the preferred crawl space construction with the interior elevation at or above the
12 lowest adjacent grade.
- 13 (3) For additional information and diagrams see FEMA Technical Bulletin 11.
- 14 b. Nonresidential Construction. New construction and substantial improvement of any commercial,
15 industrial, or other nonresidential structure shall either have the lowest floor, including the basement,
16 elevated to at least one foot above base flood elevation; or, together with attendant utility facilities shall:
- 17 i. Be floodproofed so that ~~one foot above the base flood level elevation and below~~ the structure is
18 watertight with walls substantially impermeable to the passage of water up to one (1) foot above the
19 base flood elevation;
- 20 ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of
21 buoyancy; and
- 22 iii. Be certified by a ~~registered licensed professional~~ engineer as defined in division 16.20.260 that the
23 design and methods of construction are in accordance with accepted standards of practice for meeting
24 provisions of this subsection based on their development and/or review of the structural design,
25 specifications and plans. Such certifications shall be on FEMA Form 81-65 and provided to the
26 responsible official as set forth in YMC 16.35.030(B);
- 27 iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for
28 space below the lowest floor as described in subsection (B)(2)(a)(i) of this section; and
- 29 v. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums
30 will be based on rates for floodproofing that are to one foot below the floodproofed level (e.g., a
31 building constructed to the base flood level will be rated as one foot below that level).
- 32 c. Manufactured Homes. All manufactured homes to be placed or substantially improved within a special
33 flood hazard area~~100-year floodplain~~ shall be elevated on a permanent foundation such that the lowest
34 floor of the manufactured home is at least one (1) foot above the base flood elevation and be securely
35 anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement
36 in accordance with the provisions of subsection (B)(1)(a)(ii) of this section.
- 37 d. Travel Trailers and Recreational Vehicles. Travel trailers and recreational vehicles are allowed as
38 follows:
- 39 i. ~~Travel trailers and recreational vehicles may be allowed in~~ In the floodway on a seasonal basis
40 between May 1st and October 1st of the same year and within the floodway fringe areas on a
41 temporary basis for fewer than 180 consecutive days.

1 ~~ii. Wheels and hauling apparatus shall remain on travel trailers and recreational vehicles, and these~~
2 ~~vehicles shall be sited without barriers to allow their immediate removal in the event of impending~~
3 ~~flood hazard.~~

4 ~~iii. ii. Travel trailers and recreational vehicles must be~~ Vehicle remains fully licensed or has a valid trip
5 permit from the Washington State Department of Licensing and ready for highway use, on wheels or
6 jacking system, attached to the site only by quick disconnect type utilities and security devices, and
7 have no permanently attached additions.

8 e. Critical Facilities. ~~Construction of new~~

9 i. New critical facilities shall be, to the extent possible, located outside the limits of the special flood
10 hazard areas unless ~~Construction of new critical facilities shall be permissible within the flood hazard area~~
11 ~~if no feasible alternative site is available.~~

12 ii. Critical facilities constructed within the special flood hazard areas shall have:

13 (A) The ~~the~~ lowest floor elevated three feet above the base flood elevation or to the height of 500-year
14 flood, whichever is higher.

15 (B) Access to and from the critical facility should be protected to the height utilized above.

16 (C) Floodproofing and sealing measures must be taken to ensure that toxic substances will not be
17 displaced by or released into floodwaters. ~~Access routes elevated to or above the level of base flood~~
18 ~~elevation shall be provided to all critical facilities to the extent possible.~~

19 3. Floodways. Located within flood hazard areas established in YMC 16.35.010(B) are areas designated as
20 floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry
21 debris, potential projectiles, and erosion potential, the following provisions apply:

22 a. There is a prohibition on encroachments, including fill, new construction, substantial improvements,
23 and other development unless certification by a registered professional engineer is provided demonstrating
24 through hydrologic and hydraulic analyses performed in accordance with standard engineering practice
25 that encroachments shall not result in any increased flood levels during the occurrence of the base flood
26 discharge.

27 b. If it has been adequately demonstrated that the encroachment will not result in increased flood levels, all
28 new construction and substantial improvements shall comply with all applicable flood hazard reduction
29 provisions of this section. [Ord. 562 § 1, 2017; Ord. 440 § 440.30.020, 2006.]

30 **16.35.030 Administration.**

31 A. Establishment of Floodplain Review. The Public Works director or his/her designee is the responsible official for
32 purposes of administering this division. A review shall be obtained before construction or development begins
33 within any flood hazard areas established in YMC 16.35.010(B).

34 B. Flood Hazard Inquiry

35 1. Flood Plain Review application forms shall be furnished by the responsible official.

36 2. The responsible official shall review the application and other pertinent information, and make a determination as
37 to whether the proposed development is in a special flood hazard area and a flood hazard permit is required. The
38 responsible official shall inform the applicant in writing whether or not a permit is required. The public works
39 supervisor shall render a decision on the proposal within 30 days after receiving the application unless additional
40 information is needed from the applicant, in which case a decision shall be made within 30 days after receiving the
41 information necessary to complete the review.

42 C. Flood Hazard Permit.

- 1 1. A flood hazard permit must be obtained before construction or development begins within any special flood
2 hazard area. The review shall be for all structures and development as defined in division 18.10.010 and this
3 chapter.
- 4 2. For land divisions, a flood hazard permit will be issued as part of the land division review process. The
5 following information is required:
- 6 a. Floodplain and floodway limits;
- 7 b. Finished grading;
- 8 c. Building envelopes; and
- 9 d. Hydrologic and hydraulic calculations used to determine the impact of the proposed development on base
10 flood elevation. Where base flood elevation data is not available from the Flood Insurance Study, FIRMs, or
11 from another authoritative source, it shall be provided by the applicant for subdivisions and other proposed
12 development which contain at least fifty (50) lots or five (5) acres, whichever is less. This documentation
13 shall be prepared by an engineer as defined in division 16.20.260.
- 14 3. For building permits, a flood hazard review will be done as part of the building permit review process. The
15 following information is required:
- 16 a. Floodplain and floodway limits;
- 17 b. Finished grading; and
- 18 c. Hydrologic and hydraulic calculations used to determine the impact of the proposed development on base
19 flood elevation. Where base flood elevation data is not available from the Flood Insurance Study, FIRMs, or
20 from another authoritative source, the applicant shall assure that proposed construction will be reasonably
21 safe from flooding. The test of reasonableness shall be a judgment of the responsible official who shall
22 consider historical data, high water marks, and photographs of past flooding, where available. This
23 documentation shall be prepared by a licensed professional engineer registered in the state of Washington.
24 Failure to elevate the lowest floor at least two (2) feet above the highest adjacent grade in these zones may
25 result in higher insurance rates.
- 26 4. Application for a flood hazard permit shall be made to the responsible official on a form furnished by the
27 responsible official.
- 28 ~~5 B. Application for a floodplain review shall be made to the responsible official, who shall be responsible for~~
29 ~~administering this division. Floodplain review application forms shall be furnished by the responsible official.~~
30 The application shall include, but not be limited to, plans in duplicate drawn to scale showing the nature,
31 location, dimensions, and elevations of the area in question, and existing or proposed structures, fill, storage of
32 materials, and drainage facilities. Specifically, the following information is required:
- 33 ~~1a.~~ 1a. Elevation, in relation to mean sea level as determined by the National Geodetic Vertical Datum
34 (NGVD) of ~~1929~~1988, of the lowest floor (including basement) of all structures;
- 35 ~~2b.~~ 2b. Elevation, in relation to NGVD of ~~1929~~1988, to which any structure has been floodproofed;
- 36 ~~3c.~~ 3c. Certification by a ~~registered licensed professional~~ engineer as defined in division 16.20.260 that the
37 floodproofing methods for any nonresidential structure meet the floodproofing criteria in YMC
38 16.35.020(B)(2)(b); ~~and~~
- 39 ~~4d.~~ 4d. Description of the extent to which any watercourse will be altered or relocated as a result of the
40 proposed development- and

1 e. Hydrologic and hydraulic calculations used to determine the impact of the proposed development on
2 base flood elevation. If hydraulic modeling software is utilized for these calculations, all electronic files
3 shall be submitted prior to flood hazard permit approval.

4 6C. Responsibilities of the Responsible Official.

5 1. Proposed Development Review.

6 a. Review all proposed developments ~~to determine whether or not a floodplain review is required~~ with
7 respect to the Flood Insurance Study and accompanying maps and zoning district boundaries;.

8 ~~b. Review all proposed development with respect to the flood insurance study maps and zoning district~~
9 ~~boundaries.~~ Make interpretations where needed as to the exact location of flood hazard area boundaries.

10 d. When base flood elevation data has not been provided in accordance with YMC 16.35.030 (C) shall
11 obtain, review and reasonably utilize any base flood elevation and floodway data available from an agency
12 of federal or state government, or other sources, in order to enforce the provisions of this chapter;

13 e. Review all proposals to determine that the requirements of this chapter have been satisfied;

14 f. Review all proposals to determine that all necessary permits have been obtained from those federal, state
15 or local governmental agencies from which prior approval is required; and

16 g. Issue a flood hazard permit with any conditions necessary to insure that the development meets the
17 requirements of this chapter.

18 7. Elevation Certificates Required.

19 a. Elevation certificates are required to verify elevations of structures and above-ground equipment, and
20 shall be submitted prior to receiving an inspection for footing, framing and certificate of occupancy.
21 Elevation certificates shall be prepared by a licensed professional surveyor registered in the state of
22 Washington.

23 ~~2. The responsible official shall immediately forward the floodplain review application to the public works-~~
24 ~~supervisor, who shall be responsible for all technical aspects of the application, review, and enforcement of this~~
25 ~~division. The public works supervisor shall render a decision on the proposal within 30 days after receiving the-~~
26 ~~application unless additional information is needed from the applicant, in which case a decision shall be made-~~
27 ~~within 30 days after receiving the information necessary to complete the review.~~

28 ~~3. Floodplain Review.~~

29 ~~a. Inform applicants about other federal, state, or local permits or reviews that may be required, and~~
30 ~~provide related advice to the applicant or the public works supervisor.~~

31 ~~b. Accept and immediately forward floodplain review applications to the public works supervisor.~~

32 ~~c. Make written recommendations on floodplain review applications within the review period, when~~
33 ~~determined to be appropriate or requested by the public works supervisor.~~

34 ~~D. Responsibilities of the Public Works Supervisor.~~

35 ~~1. Floodplain Review.~~

36 ~~a. Review all proposals to determine that the requirements of this division have been satisfied.~~

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

- 1 ~~e. Review all proposals to determine whether the proposed development is located in the floodway. If~~
2 ~~located in the floodway, assure that the encroachment provisions of YMC 16.35.020(B)(3) are met.~~
- 3 ~~2. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with~~
4 ~~YMC 16.35.010(B)(2), the public works supervisor shall obtain, review, and reasonably utilize any base flood~~
5 ~~elevation and floodway data available from any agency of federal or state government, or other sources in order~~
6 ~~to enforce the guidelines of frequently flooded areas (this chapter).~~
- 7 ~~3. Information to Be Obtained and Maintained.~~
- 8 ~~a. Where base flood elevation data is provided through the flood insurance study, obtain and record the actual~~
9 ~~elevation (in relation to NGVD of 1929) of the lowest habitable floor (including basement) of all new or~~
10 ~~substantially improved structures, and whether or not the structure contains a basement.~~
- 11 ~~b. For all new or substantially improved floodproofed structures, verify and record the actual elevation (in~~
12 ~~relation to NGVD of 1929) to which the structure was floodproofed, and maintain the floodproofing~~
13 ~~certifications required in subsection (B)(3) of this section.~~
- 14 ~~e. Maintain for public inspection all records pertaining to the provisions of this division.~~
- 15 ~~d. Granting of floodplain variances in accordance with subsection E of this section.~~

16 ~~ED.~~ Variances.

- 17 1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot
18 on one-half acre or less in size, abutting and surrounded by lots with existing structures constructed below the
19 base flood level, provided items in YMC 16.35.030(F)(1)(a) through (k) have been fully considered. As the lot
20 size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- 21 2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the
22 National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures
23 set forth in the remainder of this division.
- 24 3. Variances shall only be issued upon a showing of good and sufficient cause that may be granted pursuant to
25 the National Flood Insurance Program and applicable state law, and shall only be issued if the following are
26 met:
- 27 a. The proposal has been designed to reasonably minimize the impact on the floodplain and its functions;
28 b. No increase in flood levels during the base flood discharge would result;
29 c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
30 d. Failure to grant the variance would result in exceptional hardship to the applicant;
31 e. The hardship is not created by the property owner or its immediate predecessor in the title; and
32 f. The granting of a variance will not result in increased flood heights, additional threats to public safety,
33 or extraordinary public expense, create nuisances, cause fraud on or victimization of the public.
- 34 4. Variances, as interpreted in the National Flood Insurance Program, are based on the general zoning law
35 principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to
36 the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely
37 populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
- 38 5. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree
39 of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have

1 low damage potential and complies with all other variance criteria except subsections (D)(1)(a) and (b) of the
2 general standards.

3 6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted
4 to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will
5 be commensurate with the significantly increased risk resulting from the reduced lowest floor elevation.

6 ~~7. The public works supervisor shall report any variances to the Federal Emergency Management Agency upon~~
7 ~~request.~~

8 7. Variances may be issued for new construction and substantial improvements to be erected on a lot on one-
9 half (1/2) acre or less in size, abutting and surrounded by lots with existing structures constructed below the base
10 flood level, provided that the items in division 16.35.030 have been fully considered.

11 8. The public works supervisor shall report any variances to the Federal Emergency Management Agency upon
12 request.

13 ~~E~~. Appeals. Administrative decisions rendered by the responsible official or the public works supervisor are subject
14 to appeal according to the town of Yacolt appeals process.

15 1. In acting on appeals, the hearings examiner shall consider all technical evaluations, all relevant factors, and
16 standards specified in other sections of this division:

17 a. The danger that materials may be swept onto other lands to the injury of others;

18 b. The danger to life and property due to flooding or erosion damage;

19 c. The susceptibility of the proposed facility and its contents to flood damage, and the effect of such
20 damage on the individual owner;

21 d. The importance of the services provided by the proposed facility to the community;

22 e. The necessity to the facility of a waterfront location, where applicable;

23 f. The availability of alternative locations for the proposed use, which are not subject to flooding or
24 erosion damage;

25 g. The compatibility of the proposed use with existing and anticipated development;

26 h. The relationship of the proposed use to the comprehensive plan and floodplain management program
27 for that area;

28 i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

29 j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters, and the
30 effects of wave action, if applicable, expected at the site; and

31 k. The costs of providing governmental services during and after flood conditions including maintenance
32 and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and
33 bridges.

34 2. Upon consideration of the factors of subsection (E)(1) of this section and the purposes of this division, the
35 hearings examiner may attach such conditions to actions on appeals as it deems necessary to further the purpose
36 of this division.

37 3. The responsible official shall obtain and/or maintain the following: ~~records of all appeal actions.~~

1 a. Where base flood elevation data is provided through the Flood Insurance Study, FIRMs, or as required
2 as in division 16.35.030, obtain and record the actual elevation (in relation to mean sea level based on the
3 NAVD 1988) of the lowest floor (including the basement) of all new or substantially improved structures,
4 and whether or not the structure contains a basement.

5 b. For all new or substantially improved floodproofed nonresidential structures, verify and record the
6 actual elevation (in relation to mean sea level based on the NAVD 1988) to which the structure was
7 floodproofed, and maintain the floodproofing certifications required in division 16.35.030 (5) (c).

8 c. All records for public inspection pertaining to the provisions of this chapter.

9 [Ord. 562 § 1, 2017; Ord. 440 § 440.30.030, 2006.]

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Chapter 16.40

PRIORITY HABITAT AREAS

Sections:

- 16.40.010 Introduction.
- 16.40.020 Applicability.
- 16.40.030 ~~Riparian habitat buffers~~ Standards and Nonregulatory measures.
- 16.40.040 Specific Activities in Riparian Priority Habitat ~~Buffer activities.~~
- 16.40.050 Habitat permit applications.
- ~~16.40.060 Final permit approval.~~

16.40.010 Introduction.

~~The purpose of this chapter is to protect environmentally distinct, fragile, and valuable fish and wildlife habitat areas, as defined in YMC 16.40.020(D). The protection measures spelled out in this chapter are intended to conserve and enhance the functional integrity of those habitats needed to perpetually support fish and wildlife populations. [Ord. 562 § 1, 2017; Ord. 440 § 440.40.010, 2006.]~~

The purpose of this chapter is to further the goal of no net loss of habitat functions and values within designated habitat areas by protecting environmentally distinct, fragile and valuable fish and wildlife habitat areas, as defined in division 16.40.020 D (1)(a), for present and future generations, while also allowing for reasonable use of private property. This chapter intends to conserve the functional integrity of the habitats needed to perpetually support fish and wildlife populations.

A. Within areas designated by this chapter, development or clearing activities which degrade habitat should generally be avoided where possible. However, activities listed as exempt in this chapter can be undertaken in habitat areas without additional review. Activities not listed as exempt can be undertaken following town review if they do not substantially diminish the habitat functions and values present.

B. The provisions of this chapter dealing with existing agricultural activities are designed to balance conflicting Growth Management Act goals to preserve both agricultural uses and habitat areas, and recognize:

- 1. That the maintenance and enhancement of natural resource-based industries, including agriculture, is a goal of the state Growth Management Act;
- 2. That any regulation should be consistent with the “right to farm” provisions in Chapter 9.26 of this code;
- 3. That agricultural lands can provide habitat;
- 4. That habitat protection must relate to the baseline of existing functions and values given historic agricultural practices, rather than seeking to restore pre-agricultural conditions;
- 5. That since agricultural activities are dynamic, habitat functions and values can be expected to fluctuate during the course of an agricultural cycle, which fluctuation must be considered in identifying existing functions and values; and
- 6. That it is expected that continuation of existing agriculture will not degrade existing functions and values unless sediment, nutrients, or chemicals are allowed to enter streams, or existing beneficial canopy in close proximity to streams is significantly degraded.

16.40.020 Applicability.

A. General. Review under the standards of this chapter shall apply to any proposed development or nondevelopment clearing activities within designated habitat areas as defined in subsection D of this section.

1 1. Development activities are those proposals already subject to existing town land division, building, grading,
2 or other review processes.

3 2. Nondevelopment clearing activities are proposals which are not otherwise subject to town review, but
4 involve the alteration or removal of native vegetation in designated habitat areas.

5 B. Exempt Activities.

6 1. All proposed activities outside designated habitat areas are exempt from review under this chapter, except
7 where noted in subsection B of this section. The following activities within designated habitat areas are exempt
8 from regulation under this chapter and do not require further review.

9 ~~a. Hand clearing of nonnative, invasive plant species.~~

10 ~~b. Clearing authorized by forest practices applications other than conversions in habitat areas.~~

11 ~~c. Emergency clearing to abate immediate danger to persons or property.~~

12 ~~d. Remodel, replacement, or expansion, not to exceed 25 percent of the 2004 footprint, of existing home or~~
13 ~~existing accessory building inside habitat areas. Home remodels, replacements, or expansions of up to 500~~
14 ~~square feet or mobile home replacements of single wide with double wide models are also exempt.~~

15 ~~e. Nondevelopment clearing activities in habitat areas consistent with a recorded stewardship plan for~~
16 ~~which~~

17 2. Within designated habitat areas exempt activities are listed in division 16.40.020 (H). These do not require
18 review.

19 C. Habitat Areas Covered by This Chapter.

20 1. This chapter shall apply to nonexempt activities as defined in subsection B of this section that are proposed
21 within the following habitat areas:

22 a. Riparian, Priority Habitat. Areas extending outward from the ordinary high water mark of a river,
23 stream, or creek to the edge of the 100-year floodplain, or the following distances, whichever is greater:

24 i. ~~DNR Type 1 and 2 waters, 300 feet~~ S waters, two hundred fifty (250) feet;

25 ii. ~~DNR Type 3 waters, 250 feet~~ F waters, two hundred (200) feet;

26 iii. ~~DNR Type 4 waters, 200 feet~~ Np waters, one hundred (100) feet;

27 iv. ~~DNR Type 5 waters, 100 feet~~ Ns waters, seventy-five (75) feet.

28 ~~Type 1 through 5 definitions are based on WAC 222-16-031. Erosion gullies or rills, and streams which~~
29 ~~are manmade, less than 12 inches wide or not having a defined bed and/or bank, are not included.~~

30 Water types are defined and mapped based on WAC 222-16-030, (Forest Practices Rules). Type S streams
31 include shorelines of the state and have flows averaging twenty (20) or more cubic feet per second; Type F
32 streams are those that are not Type S but still provide fish habitat; and Type N streams do not have fish
33 habitat and are either perennial (Np) or seasonal (Ns). All streams are those areas where surface waters
34 flow sufficiently to produce a defined channel or bed as indicated by hydraulically sorted sediments or the
35 removal of vegetative litter or loosely rooted vegetation by the action of moving water. Ns streams must
36 connect to another stream above ground. Seasonal or intermittent streams are surface streams with no
37 measurable flow during thirty (30) consecutive days in a normal water year.

38 b. Other Priority Habitats and Species (PHS). Areas identified by and consistent with the Washington
39 State Department of Fish and Wildlife priority habitats and species criteria, including areas within 1,000

1 feet of individual species point sites. The town shall defer to the Washington State Department of Fish and
 2 Wildlife in regard to classification, mapping, and interpretation of priority habitat species._
 3 <http://wdfw.wa.gov/conservation/phs/>

4 ~~DE~~. Mapping. The above habitat areas are mapped on a townwide basis in the adopted Yacolt Critical Lands Priority
 5 Habitats and Species Map. Maps are on file with the town and are available for public viewing and circulation. Maps
 6 of individual locations of sensitive, threatened, or endangered wildlife species are maintained separately. Under law,
 7 this information is not available for widespread public distribution unless authorized by the Washington State
 8 Department of Fish and Wildlife. ~~However, property owners may obtain all existing information for their properties~~
 9 ~~upon request. GIS Map Store produces maps for free in the following link. [Critical Areas Ordinances Maps](#)~~
 10 Official maps shall be updated by the town as warranted by the availability of new information.

11 F. Best Available Science. Definitions and maps of habitat areas are based on best available science described in the
 12 following documents:

- 13 1. 1996 Washington State Department of Fish and Wildlife Priority Habitats and Species List; and
- 14 2. 1995 Management Recommendations for Washington’s Priority Habitats. Best available scientific data
 15 supporting this chapter may be updated and/or reevaluated as part of future amendments.
- 16 3. Associated GIS data files maintained by Clark County Department of Assessment and GIS.

17 Best available scientific data supporting this chapter may be updated and/or re-evaluated as part of future Title
 18 16 updates.

19 G. Determining Site Specific Applicability. In the event of inconsistencies, official habitat area definitions and on-
 20 site assessments shall prevail over townwide maps in determining applicability of this chapter. The town shall
 21 follow the recommendations of the Washington State Department of Fish and Wildlife in the interpretation of site-
 22 specific conditions as they relate to the definition of priority habitat and species. [Ord. 562 § 1, 2017; Ord. 440 §
 23 440.40.020, 2006.]

24 H. Activities Reviewed Under this division applies to activities within designated priority and locally important
 25 habitat areas as described in Table 16.40.010-01

<u>Table 16.40.010-1. Exempt and Reviewed Activities</u>		
<u>Proposal</u>	<u>Is a clearing review required?</u>	<u>Are any additional fees or review timelimes required?</u>
<u>Land division or lot reconfiguration entirely outside habitat areas, except as subject to division 16.40.020 (D)(1)(a)</u>	<u>No. Exempt</u>	<u>Fees pursuant to division 18.110</u>
<u>Land division or lot reconfiguration containing habitat areas, except as subject to division 16.40.020 (D)(1)(a)</u>	<u>Exempt if impacted lots establish building and clearing envelopes outside of habitat</u>	<u>Fees pursuant to division 18.110</u>
<u>Any activities on lots not in habitat areas, except as subject to division 16.40.020 (D)(1)(a)</u>	<u>Exempt</u>	<u>None</u>
<u>Any activities on portions of lots not containing habitat areas, except as subject to division 16.40.020 (D)(1)(a)</u>	<u>Exempt</u>	<u>None</u>

<u>Table 16.40.010-1. Exempt and Reviewed Activities</u>		
<u>Proposal</u>	<u>Is a clearing review required?</u>	<u>Are any additional fees or review timelines required?</u>
<u>Remodeling, replacement of, or additions to existing homes and associated appurtenances that expand the original footprint by no more than 900 square feet within the outer 50 percent of the riparian habitat area and do not require clearing of native trees or shrubs.</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for placement of fencing, private wells, septic systems or individual lot sewer, water, electrical or utility connections in habitat areas, where practical alternatives do not exist</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for stream bank restoration, for native replanting or enhancements in habitat areas</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for routine road maintenance activities in habitat areas consistent with Regional Road Maintenance ESA Program Guidelines</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for soil, water, vegetation or resource conservation projects having received an environmental permit from a public agency in habitat areas</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for creating a 4-foot or narrower path using natural, wood-based, or vegetated pervious surfacing in habitat areas</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing as minimally necessary for surveying or testing in habitat areas</u>	<u>Exempt</u>	<u>None</u>
<u>Clearing or development in riparian habitat areas which is at least one hundred (100) feet from the waterline and separated by a continuous public or private roadway serving three (3) or more lots</u>	<u>Exempt</u>	<u>None</u>
<u>Non-development clearing activities in habitat areas consistent with a recorded stewardship plan for which any mitigation specified in the plan is timely completed</u>	<u>Exempt</u>	<u>None</u>

<u>Table 16.40.010-1. Exempt and Reviewed Activities</u>		
<u>Proposal</u>	<u>Is a clearing review required?</u>	<u>Are any additional fees or review timelines required?</u>
<u>Existing agricultural uses within non-riparian habitat areas</u>	<u>Exempt</u>	<u>None</u>
<u>Existing agricultural uses within riparian habitat areas</u>	<u>Reviewed under division 16.40.020 (A)(2)</u>	<u>None</u>
<u>New home or other construction in habitat areas</u>	<u>Review required</u>	<u>No additional timelines. Applicable review (building permit, etc.) must comply with ordinance standards. Fees pursuant to Title 18</u>
<u>All other vegetation clearing in habitat areas</u>	<u>Review required</u>	<u>Fees pursuant to Chapter 18.110. Applicable review, if any, must comply with ordinance standards. If no other review involved, clearing request will be reviewed administratively</u>

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16.40.030 Standards and Nonregulatory measures

A. Approval Criteria.

Approval shall be granted for all proposals demonstrating compliance with the following criteria. Approval shall be required prior to clearing or development.

1. Intent. Designated habitats are to be protected through avoidance or reduction of the impacts of activities. This section provides standards for the review of proposed nonexempt activities within designated habitat areas.

2. Mitigation Measures.

a. Mitigation measures may be established pursuant to the above basic criteria.

b. Disrupted functions and values shall be mitigated on-site as a first priority, and off-site thereafter.

c. An up-to-date science-based guide should be used to guide on-site mitigation. Off-site mitigation should be guided by applicable watershed, fish recovery, sub-basin or other science-based plans. Any science used to guide mitigation actions, whether on-site or off-site, must meet the criteria and characteristics of best available science listed in WAC 365-195-905 (Criteria for determining which information is the “best available science”), or the state standards in effect at the time of application.

d. Subject to individual circumstances, potential mitigation measures may include, but are not limited to, the following:

(1) Avoiding the impact all together by not taking a certain action or parts of an action;

(2) Exploring alternative on-site locations to avoid or reduce impacts of activities;

(3) Preserving important vegetation and natural habitat features by establishing buffers or by limiting clearing or alteration;

(4) Replacing invasive exotic plants with native species (refer to the Clark County Native Plant Communities Guide or other relevant publication for guidance);

- 1 (5) Prohibiting introduction of invasive plant species in habitat areas;
- 2 (6) Enhancing, restoring or replacing vegetation or other habitat features and functions. In riparian
3 areas, this may include riparian zone averaging as specified in division 16.40.030 (C);
- 4 (7) Using native plants where appropriate when planting within habitat areas (refer to the Clark
5 County Native Plant Communities Guide or other relevant publication for guidance);
- 6 (8) Managing access to habitat areas, including exclusionary fencing for livestock if needed;
- 7 (9) Stream crossings:
 - 8 (a) Using existing stream crossings whenever a review of suitability, capacity, access and
9 location, habitat impacts of alternatives, maintenance, liability and economics indicate the
10 existing crossing is feasible;
 - 11 (b) Constructing new stream crossings, when necessary, in conformance to the water
12 crossing structure standards in WAC 220-110-070 (Hydraulic Code Rules), which are
13 incorporated by reference;
- 14 (10) Seasonally restricting construction activities;
- 15 (11) Implementing best management practices and integrated management practices;
- 16 (12) Monitoring or review of impacts and assurance of stabilization of the area;
- 17 (13) Establishing performance measures or bonding;
- 18 (14) Establishing conservation covenants and other mechanisms to ensure long-term preservation or
19 maintenance of mitigation actions;
- 20 (15) Utilizing low impact development techniques;
- 21 (16) Promoting water quality by limiting the use of lawn and garden chemicals in habitat areas;
22 and/or
- 23 (17) Avoiding topsoil removal and minimizing topsoil compaction;
- 24 (18) Providing off-site mitigation, subject to the following conditions:
 - 25 (a) When the combination of on-site and off-site mitigation fails to substantially maintain
26 functions and values within the stream system, the application shall be denied;
 - 27 (b) All reasonable on-site mitigation alternatives have been exhausted;
 - 28 (c) Off-site mitigation is functionally equivalent to the impacts;
 - 29 (d) Off-site mitigation is appropriate in size and scale to the impacts that are not fully
30 mitigated on the original site;
 - 31 (e) Proposed off-site mitigation is reviewed by the town on a case-by-case basis with input
32 from WDFW;
 - 33 (f) Off-site mitigation may be in the form of:
 - 34 i. The purchase of credits from a permitted habitat bank, or
 - 35 ii. A specific mitigation project;

1 [a] Specific off-site mitigation projects for all other habitat areas must be in an area as
2 close as possible to the original site.

3 [b] Public regional development activities that are reviewed and approved by federal
4 and state agencies are exempt from these geographic restrictions;

5 (g) Adequate enforcement authority must be delegated to the town, as approved by the
6 Prosecuting Attorney;

7 3. The responsible official shall approve, approve with conditions or deny proposals based on compliance
8 with the criteria and the adequacy of proposed mitigation measures to ensure compliance, and applicable
9 reasonable use assurances of division 16.40.030 (B).

10 4. The responsible official shall retain final authority for such determinations, which shall be issued
11 consistent with the review timelines of YMC 18.95.010, and shall be based on best scientific information and
12 analysis available within those timelines.

13 5. Modifications to conservation covenants established under division 18.90.80 shall be consistent with the
14 standards of this division and will be processed subject to the following:

15 a. Modification to a covenant approved by the town council following public notice of the action and a
16 hearing.

17 b. Modification to a covenant approved by the town council following public notice of the action and a
18 hearing:

19 (1) Does not increase the potential adverse impact to habitat; and

20 (2) Does not involve an issue of broad public interest, based on the record of the decision; and

21 (3) Does not require further SEPA review.

22 c. Modification requests submitted with other applications will be processed as specified in YMC
23 18.95.010.

24 6. Removal of conservation covenants shall be approved by the town council.

25 7. The responsible official shall consult with and substantially follow the resulting recommendations of
26 WDFW, unless alternative determinations are supported by scientific analysis.

27 B. Reasonable Use Assurances.

28 The town assures property owners of the following, as long as impacts are mitigated to the maximum extent
29 practicable, permit conditions limiting locations and requiring mitigations may be imposed, and erosion control
30 measures required:

31 1. This division shall not be used to prohibit:

32 a. Placement of a single-family residence and residential accessory structures on an otherwise legally
33 buildable lot of record;

34 b. Expansion of a home existing prior to 2006, not to exceed twenty-five percent (25%) of the 2006
35 footprint;

36 c. Replacement of a single-wide mobile home with another dwelling, not to exceed twice the footprint
37 of the original mobile home; or

1 d. Fire hazard clearing recommended by the fire marshal, or consistent with written fire marshal or fire
2 chief guidelines.

3 2. This division shall not be used to deny all reasonable economic use of private property. These criteria
4 must be met in order to verify denial of all reasonable economic use:

5 a. The application of this chapter would deny all reasonable economic use of the property;

6 b. No other reasonable economic use of the property has less impact on the habitat area;

7 c. Any habitat alteration is the minimum necessary to allow for reasonable economic use of the
8 property; and

9 3. This division shall not be used to deny a development proposal from a public agency or public utility, if:

10 a. There is no practical alternative to the proposed project with less impact on the habitat area;

11 b. The ability of the public agency or utility to provide services to the public would be unreasonably
12 restricted; and

13 c. The application is approved through the Public Hearing Procedures process pursuant to Chapter
14 18.95. Fees are subject to the fee schedule in division 18.110.40 (C) (3) (Building Permit Fees).

15 C. Regulatory alternative shall apply in implementing the standards of this chapter.

16 Required riparian zone widths on clearing proposals on existing lots may be varied through the use of internal
17 riparian zone averaging. Subject to review under this chapter, for clearing proposals on existing lots, portions of the
18 riparian zone can be reduced up to fifty percent (50%) from the normal standards of this chapter if riparian zone
19 widths are correspondingly increased elsewhere within the applicant parcel, such that the overall size and function
20 and values of the riparian zone are maintained in the parcel. Riparian zone averaging proposals must clearly identify
21 the existing riparian functions and values on the parcel and any impacts that the proposed averaging may have upon
22 them.

23

24

25 **16.40.030 16.40.040 Specific Activities in Riparian Priority hHabitat buffers.**

26 A. General.

27 1. Riparian Priority Habitat Base buffer widths for Type 1 through 5 waters are listed in YMC
28 16.40.020(D)(1)(a)(i) through (iv).

29 2. The buffer rating system is used to determine the existing condition of the buffer as well as the applicable
30 buffer reductions that can be applied as per YMC 16.40.040(B).

31 2. Basic Criteria. Applicants proposing activities subject to this division shall demonstrate that the activity:

32 1. No Net Loss level of habitat functions and values as characterized and documented using best available
33 science; and

34 2. Minimizes habitat disruption or alteration beyond the extent required to undertake the proposal.

35 3. The determination of the specific buffer category shall be the responsibility of the applicant and be subject to
36 review and concurrence by town staff.

37 3. Agricultural Module. Where applicable, the following options are available to be used for compliance with
38 this section.

1 a. Agricultural/Habitat Protection Plan Option.

2 (1) Regulated Area. For the purposes of an agricultural/habitat protection plan, the regulated riparian area
3 shall be one hundred (100) feet from the ordinary high water mark of Type F streams, and seventy-five (75)
4 feet from the ordinary high water mark of Type Ns streams. The plan may include practices and other
5 mitigation measures on land outside the regulated riparian area to achieve the standard set forth in
6 subsection (A)(3)(a)(2) of this section.

7 (2) Standard. An agricultural/habitat protection plan shall be approved if its implementation will not
8 substantially degrade habitat functions and values that existed within the area designated in subsection
9 (A)(3)(a)(1) of this section on July 11, 2006, considering normal fluctuations due to the agricultural cycle.
10 A plan may be submitted by a group of neighborhood owners whose properties are in close proximity in
11 which case the foregoing standard shall be applied to the common plan.

12 (3) Plan Contents. Agricultural/habitat protection plans shall, at a minimum, include the following:

13 (a) An approximate mapping of existing and proposed structures, roads, driveways, utilities, property
14 lines, and agricultural uses.

15 (b) A map of regulated riparian habitat areas.

16 (c) Identification of existing habitat functions and values within the regulated habitat area on July 11,
17 2006, taking into account agricultural cycles that involve varying intensity of agricultural use.

18 (d) A description of best management practices and other mitigation measures to be undertaken in
19 order to achieve the standard in subsection (B)(2)(a)(2) of this section.

20 (e) The owner's signature attesting that the information in the plan is accurate to the best of the
21 owner's knowledge, and the mitigation measures specified in the plan will be implemented.

22 (f) The signature of an ag-habitat technician certified by the town attesting that he/she has inspected
23 the area covered by the plan and that the plan satisfies the standard in subsection (B)(2)(a)(2) of this
24 section.

25 (4) Guidelines. The responsible official shall work with a committee appointed by the council to include
26 interest group representatives (at least one of whom shall be a designee of the Clark-Cowlitz Farm Bureau,
27 whose view(s) shall be given appropriate weight to ensure that the guidelines will be both practical and cost
28 effective) and habitat professionals to develop for board adoption following a duly advertised public
29 hearing a set of guidelines which:

30 (a) Includes a checklist to identify riparian habitat functions and values; and

31 (b) Identifies potential positive and negative habitat effects of various agricultural activities; and

32 (c) Describes best management practices and other measures to enhance the positive effects and
33 mitigate or minimize any potential negative effects; and

34 (d) Includes "off-the-shelf" agricultural/habitat protection plans which may be applied to typical
35 agricultural properties and activities.

36 The guidelines shall provide that pesticide use within riparian areas must be described in the
37 management plan and conform to label instructions.

38 (5) Approval. Agricultural/habitat protection plans shall be prepared or reviewed and approved by an ag-
39 habitat technician certified by the responsible official to have completed a training program on application
40 of the guidelines. Ag-habitat technicians shall have received training in application of this chapter, which
41 training program shall be made available to any interested party. Training classes may be facilitated by
42 interest groups such as the Clark-Cowlitz Farm Bureau using trainers from the Clark Conservation District.

1 WSU Extension, Natural Resource Conservation Service, or other groups as may be certified as qualified
2 trainers by the responsible official. An ag-habitat technician shall approve the plan as meeting the standard
3 and content requirements of division 16.40.040 A (3)(a)(2) and (3). An owner dissatisfied with the review
4 by an ag-habitat technician may seek approval of the proposed management plan by the responsible official
5 whose decision may be appealed under the provisions of YMC 8.05 and YMC 18.

6 (6) Filing. The ag-habitat technician shall notify the town responsible official of the adoption of an
7 approved agricultural/habitat protection plan by a property owner indicating the property covered by the
8 plan and, at the choice of the property owner, either providing a copy of the plan or summarizing the
9 contents of the plan. Notice of such approval shall also be recorded with the Clark County Auditor and run
10 with the land unless the plan is modified or rescinded.

11 (7) Modification/Rescission. Agricultural/habitat protection plans may be modified by the owner at any
12 time utilizing the same process as applicable to initial approval. Plans may be rescinded by the owner with
13 approval of the responsible official if the owner certifies either that future agricultural activities will be
14 undertaken utilizing the default option or agricultural activities have ceased. Notice of
15 modification/rescission shall be recorded with the Clark County Auditor.

16 b. Default Option.

17 (1) Regulated Area. For the purposes of the default option, the regulated riparian area is divided into two
18 zones. Except as provided below, the inner zone, closest to the stream, extends from the ordinary high
19 water mark outward fifty (50) feet on Types S and F streams and thirty (30) feet on Type N streams. The
20 outer zone extends an additional fifty (50) feet on Types S and F streams and forty-five (45) feet on Type N
21 streams. Where slopes exceed twenty-five percent (25%), the inner zone is the greater of the prescribed
22 zone or the top of the slope break. Where wetlands are present within the inner zone, the zone is extended
23 to the greater of the prescribed width of the inner zone or the wetland buffer as designated in division 16.45
24 (Wetland Protection). However, in no case is the inner zone greater than the combined widths prescribed
25 for in the inner and outer zones for that stream type. Where there is an existing road within the inner zone,
26 the zone stops at the edge of the road improvement that is closest to the stream and the outer zone extends
27 outward from that edge.

28 (2) Standard. Clearing within the inner zone is allowed only to enhance habitat functions and values.
29 Animal husbandry within the inner zone is prohibited. Clearing and animal husbandry within the outer zone
30 shall not substantially degrade habitat functions and values as they existed on July 11, 2006, after
31 considering normal fluctuations due to the agricultural cycle. Although it is presumed that continuation of
32 agricultural activities within the outer zone that existed on July 11, 2006, will not substantially degrade
33 existing habitat functions and values, evidence of substantial degradation, such as excess sediment,
34 nutrients or chemicals moving from the outer zone into the stream resulting from agricultural activities,
35 constitute grounds for enforcement action which may require restoration of lost functions and values.
36 Pesticide application within the outer zone must conform to label specifications and application within the
37 inner zone must be by a licensed applicator.

38 (3) Reasonable Use. If the inner zone impacts more than fifty percent (50%) of a parcel that is ten (10)
39 acres or less in area, or more than twenty-five percent (25%) of a parcel that is five (5) acres or less in area,
40 the responsible official may approve a reasonable use reduction to the width of the inner zone. In such case,
41 clearing and animal husbandry may be allowed up to ten (10) feet from the ordinary high water mark;
42 provided, that reasonable practices and other appropriate mitigation measures are employed to limit
43 sediment, nutrients and chemicals from entering the stream.

44 4. Administration.

45 a. No application fees apply to the approval of agriculture/habitat protection plans.

46 b. No town review is associated with the default option unless the owner seeks approval of a reasonable use
47 reduction of the inner zone, which application shall be processed without application fees.

c. Evidence of violation of the standards in division 16.40.030 A shall be grounds for enforcement action under YMC Chapter, 8.05, YMC Title 18, and the town's general authority to enforce laws and regulations.

~~4. A single priority habitat feature may contain buffers of more than one category as long as each category represents at least 25 percent of the total buffer area.~~

~~5. Portions of habitat buffers may be deemed functionally isolated if they are separated from the sensitive area in a manner that limits buffer functions. Buffers deemed functionally isolated are exempt from regulation under this chapter. Portions of buffers may be deemed functionally isolated if at least one of the following conditions exist:~~

~~a. Paved roads greater than 20 feet in width.~~

~~b. Permanent buildings or structures that will not be removed as part of the triggering application.~~

~~B. Buffer Classifications. The functions provided and overall effectiveness of a particular buffer is largely dependent on the structure and composition of the vegetation within the buffer. In order to ensure adequate protection of regulated sensitive areas, buffer management strategies as detailed in YMC 16.40.040 are dependent on the particular buffer type in which these activities are taking place.~~

~~1. Type A Buffers.~~

~~a. Type A Buffer Criteria. Buffers are classified as Type A if they meet all of the requirements of either subsection below:~~

~~i. A nonforested buffer area consisting of a mature, unimpacted, naturally occurring native plant community with less than 10 percent aerial coverage of nonnative species; or~~

~~ii. A forested buffer consisting of a diverse, mature, native vegetation composition and possessing all the following criteria:~~

~~(A) Multi-tiered vegetation structure (emergent, shrub, and tree layers);~~

~~(B) A tree canopy greater than 30 feet tall with at least 80 percent aerial canopy closure;~~

~~(C) Three or more native tree species;~~

~~(D) Five or more native shrub species; and~~

~~(E) No less than 10 percent coverage of nonnative species.~~

~~2. Type B Buffers.~~

~~a. Type B buffers are essentially immature versions of Type A buffers. Type B buffers are expected to meet the standards of Type A buffers within a period of 10 years. If buffers are to be enhanced to meet Type B criteria, the following conditions must be met:~~

~~i. New tree, shrub, and emergent vegetation must be comprised entirely of native stock;~~

~~ii. In order to meet the Type A buffer criteria within the 10-year period, the minimum size for plant installation must be followed:~~

~~(A) Bare root trees—greater than or equal to 36 inches in length;~~

~~(B) Bare root shrubs—greater than or equal to 24 inches in length;~~

~~(C) Containerized trees—greater than or equal to two-gallon;~~

~~(D) Containerized shrubs—greater than or equal to one-gallon;~~

1 ~~(E) Live stakes or cuttings of at least 24 inches in length can be utilized for willow (Salix sp.)~~
2 ~~and red osier dogwood (Corpus stolonifera) plantings; and~~

3 ~~(F) Trees and shrubs shall be planted at a density of 10 trees and 20 shrubs per 1,000 square feet.~~

4 ~~3. Type C Buffers. Type C buffers are buffers that do not meet the conditions of Type A, B, or D buffers.~~

5 ~~4. Type D Buffers. Type D buffers are those areas which meet at least one of the following criteria:~~

6 ~~a. Areas with fewer than two native tree species;~~

7 ~~b. Areas with fewer than three native shrub species; or~~

8 ~~c. Areas with nonnative species that have an aerial coverage of greater than 25 percent of the individual~~
9 ~~buffer type.~~

10 ~~5. Buffers applied to enhanced wetlands shall be determined upon the classification of the wetland prior to~~
11 ~~enhancement. [Ord. 562 § 1, 2017; Ord. 440 § 440.40.030, 2006.]~~

12 **16.40.040 — Buffer activities.**

13 **A. General.**

14 ~~1. Any proposed activity in a regulated buffer shall not serve to ultimately degrade or compromise the overall~~
15 ~~functions and values of the sensitive resource and buffer.~~

16 ~~2. Construction of impervious surfaces or structures inside the buffer area will be deemed as impacts and shall~~
17 ~~not be permitted except in the following situations:~~

18 ~~a. Construction of stormwater conveyance pipes or outfall structures;~~

19 ~~b. Utility line construction; or~~

20 ~~c. Road crossings which travel in a direct line through the buffer and cross the sensitive area at a~~
21 ~~perpendicular angle.~~

22 ~~3. All impervious surfaces within the buffer area resulting from any construction activities detailed in~~
23 ~~subsections (A)(2)(a) through (c) of this section shall be deemed impacts and must be mitigated at a one to one~~
24 ~~replacement area ratio. In addition the following guidelines apply to permitted construction activities within a~~
25 ~~habitat buffer:~~

26 ~~a. Current BMPs will be utilized to limit impacts within the buffer areas;~~

27 ~~b. All construction corridors will be clearly demarcated in the field with silt fence;~~

28 ~~c. Impacts to native vegetation will be kept to a minimum; and~~

29 ~~d. A qualified biologist will be on location while grading and construction work are performed within the~~
30 ~~habitat buffer areas.~~

31 **B. Buffer Reductions.** ~~Base buffer widths as defined in YMC 16.40.020(D)(1)(a) may qualify for an automatic~~
32 ~~buffer reduction based on the type of buffer existing at the time of the land use application as detailed below:~~

33 ~~1. Type A buffer: 20 percent;~~

34 ~~2. Type B buffer: 15 percent;~~

35 ~~3. Type C buffer: 10 percent; and~~

36 ~~4. Type D buffer: zero percent.~~

1 ~~C. Buffer Enhancement.~~

2 ~~1. Type C and D buffers may be further reduced through enhancement to meet the definition of a higher quality~~
3 ~~buffer type as detailed in YMC 16.40.030(B)(1) through (4).~~

4 ~~2. Buffer reduction amounts are calculated as a percentage of the base buffer width.~~

5 ~~3. The reductions for each buffer type are as follows:~~

6 ~~a. Type D to Type B—20 percent reduction;~~

7 ~~b. Type D to Type C—10 percent reduction; and~~

8 ~~c. Type C to Type B—five percent reduction.~~

9 ~~4. By nature of the definition of Type B buffers (YMC 16.40.030(B)(2)), Type B buffers can not be enhanced.~~

10 ~~5. Buffer enhancement areas must be contiguous with the sensitive area and extend to the outer edge of the~~
11 ~~buffer.~~

12 ~~6. The entire buffer area must be enhanced in order to receive the buffer reductions outlined in subsection~~
13 ~~(C)(3) of this section.~~

14 ~~D. Buffer Averaging.~~

15 ~~1. A buffer averaging plan can be implemented in order to avoid impacts to the wetland buffer and allow a~~
16 ~~certain degree of flexibility in site design.~~

17 ~~2. Applicants proposing a buffer averaging plan must demonstrate that the buffer averaging plan meets the~~
18 ~~following conditions:~~

19 ~~a. The buffer averaging will not result in a net loss of buffer area or function;~~

20 ~~b. Buffer reduction and compensation areas must be of comparable composition, structure, and type as~~
21 ~~defined in YMC 16.40.030(B)(1) through (4);~~

22 ~~c. The maximum width of reduction available through buffer averaging is 10 percent of the base buffer~~
23 ~~width;~~

24 ~~d. The maximum length of the reduction area available through buffer averaging area is 20 percent of the~~
25 ~~overall length of the outer edge of the buffer within the subject property.~~

26 ~~E. Preexisting Conditions. Buffers subject to unapproved activities within five years of the triggering application~~
27 ~~shall be subject to the following limitations if the unapproved activity resulted in a lower buffer classification:~~

28 ~~1. The entire buffer area must be enhanced to meet the Type B buffer criteria set forth in YMC~~
29 ~~16.40.030(B)(2).~~

30 ~~2. Enhancements required under this subsection E will not qualify for buffer width reductions detailed in~~
31 ~~subsection C of this section.~~

32 ~~3. Automatic buffer reductions based on buffer quality outlined in subsection B of this section are not~~
33 ~~permitted.~~

34 ~~4. The town of Yacolt reserves the right to notify appropriate state and federal regulating agencies in~~
35 ~~conjunction of violation of this subsection E when impacts to sensitive areas may have caused the take of state-~~
36 ~~or federally threatened, endangered, or candidate species. [Ord. 562 § 1, 2017; Ord. 440 § 440.40.040, 2006.]~~

1 **16.40.050 Habitat permit applications.**

2 A. ~~General.~~ Coordination with Other Permits. Development proposals requiring review under this chapter which
3 involve other town permits shall be reviewed under the timelines of the existing review; provided, that application
4 information required under this division (16.40.050 (2)) is submitted and approval criteria (16.40.030) are addressed.

5 ~~1. A habitat permit will be required if a triggering activity as defined in YMC 16.40.020(A) and (B) is proposed~~
6 ~~within a priority habitat as defined in YMC 16.40.020(D).~~ Non-Development proposals. Non-development
7 proposals not involving any other town application review shall be reviewed as a permit application under
8 division YMC 18.100.010.

9 2. Submittal Information.

10 A. Applications for nonexempt activities requiring review under this division shall be submitted with the
11 following:

12 1. Development applications involving other town review shall submit application materials according
13 to specifications of other reviews involved, and shall also include a completed proposed habitat activity
14 form.

15 2. Non-development applications not involving other town review shall be submitted with a completed
16 habitat activity form.

17 3. Where required by state law, a completed environmental checklist pursuant to the State Environmental
18 Policy Act (SEPA) shall also be submitted unless categorically exempted by the SEPA Rules.

19 4. The town shall develop and make available proposed habitat activity forms. These forms shall clearly
20 and concisely provide direction to applicants on what information is needed in the following areas:

21 1. Name, address, location, and basic tracking information for the application;

22 2. Existing conditions information, natural and manmade features on the site;

23 3. Description and mapping of proposed activities and how this would change existing conditions on the
24 site.

25 5. Proposals under this chapter are encouraged but not required to include a report or other assistance from
26 a biologist, botanist, ecologist, or other similarly qualified or trained professional.

27 B. Permit Authority and Timelines.

28 1. An approval granted under this chapter shall remain valid until proposed activities are undertaken and
29 completed. An approved permit not acted upon shall be valid for two (2) years, and upon showing of good
30 cause, may be extended for an additional twelve (12) months.

31 2. Approval for habitat area activities as part of other town development approvals shall be valid for a
32 time period specified by the other permit(s) involved.

33 C. Appeals.

34 Appeals of town decisions under this chapter may be filed under the provisions of division YMC 8.05 and YMC
35 18.95.

36 D. Enforcement.

37 At such time as a violation of this chapter has been determined, enforcement action shall be commenced in
38 accordance with the enforcement provisions of YMC Chapter 8.05 and YMC Title, and may also include the
39 following:

1 1. Applications for town land use permits on sites that have been found to be in violation of this chapter
2 pursuant to the process set forth in YMC 16, YMC 8.05 or YMC 18 shall not be processed until three (3)
3 years after the completion of clearing. The three (3) years may be reduced upon approval and
4 implementation of a restoration or mitigation plan, to include the following:

5 a. A plan for the replanting of trees, brush and groundcover of a type and distribution comparable to that
6 existing prior to clearing; provided, that the responsible official may approve alternative species in order to
7 promote expedient soil stabilization, and may require additional tree planting as mitigation for the loss of
8 mature trees; and

9 b. A monitoring plan to assure at least a ninety percent (90%) survival rate of re-established plantings
10 after at least three (3) but not more than eight (8) growing seasons; and

11 c. Where fish and wildlife habitat areas are cleared in violation of this chapter, a plan to restore habitat
12 functionality, as it existed prior to the violation, subject to the review and evaluation of WDFW.

13 d. Satisfaction of the terms and conditions of any judgement or order entered based upon the violation.

14 e. Financial assurances in the form of a bond or other security acceptable to the town, in an amount
15 sufficient to re-establish the mitigation in the event of failure or subsequent disturbance may be required by
16 the responsible official. The financial assurances shall remain in place for the length of the time specified
17 for monitoring in the plan and shall be released after a request by the applicant and a final inspection. In the
18 event of failure of the mitigation, failure to fully execute the mitigation plan, or subsequent disturbance,
19 forfeiture of the financial assurances shall be required and the funds shall be used to re-establish the
20 mitigation or to complete the execution of the plan. In the event that such re-establishment or completion is
21 deemed impractical by the director, the funds shall accrue to the established cumulative effects fund for the
22 watershed within which the site is located.

23 2. In the absence of any mitigation measures approved by the department for sites cleared in violation of
24 this standard, the town may refuse to approve any permit for up to an additional three (3) years.

25
26 ~~2. The town reserves the right to obtain independent experts for the purpose of reviewing habitat permit~~
27 ~~applications under this chapter.~~

28 ~~3. Any proposed activity shall comply with all applicable local, state, and federal laws related to the particular~~
29 ~~sensitive area.~~

30 ~~4. The town of Yacolt can not be held liable for failure on the part of the applicant to obtain necessary~~
31 ~~authorizations referred to in subsection (A)(3) of this section.~~

32 ~~5. Prior to commencement of the regulated activities, principal engineers and contractors must review the~~
33 ~~issued habitat permit and sign a statement of understanding to be kept on file with the town. Signed statements~~
34 ~~must be received by the town no less than five business days prior to commencement of construction activities.~~

35 ~~6. Copies of the habitat permit must be kept on the construction site until which time that the project~~
36 ~~construction activities are completed.~~

37 ~~B. Habitat permit applicants must submit a habitat report detailing the existing conditions on the site and all~~
38 ~~proposed work. Habitat reports must include the following information to be deemed complete:~~

39 ~~1. Graphics are to be of a legible scale and should include the following:~~

40 ~~a. Location map of the site;~~

41 ~~b. Topographic map showing the best available contours for the site;~~

- 1 e. ~~Color aerial photo with project plans clearly shown;~~
- 2 d. ~~Scaled project drawing showing the surveyed boundaries of the sensitive area and appropriate base-~~
- 3 ~~buffers;~~
- 4 e. ~~Graphical depictions of any proposed buffer averaging or enhancement activities;~~
- 5 f. ~~If applicable, location of proposed enhancement activities.~~
- 6 2. ~~Habitat reports shall also include the following information within the text of the document:~~
- 7 a. ~~Project description;~~
- 8 b. ~~Existing conditions for the entire site which shall include the following:~~
- 9 i. ~~Physical description of the sensitive area;~~
- 10 ii. ~~Existing tree species and canopy coverage estimates within the buffer area;~~
- 11 iii. ~~Existing shrub species within the buffer area;~~
- 12 iv. ~~Existing emergent vegetation within the buffer area;~~
- 13 v. ~~Functional analysis narrative.~~
- 14 c. ~~Proposed buffer averaging, enhancement plans if applicable;~~
- 15 d. ~~Purpose and need for proposed impacts;~~
- 16 e. ~~Project impacts;~~
- 17 f. ~~If applicable, buffer enhancement details shall include:~~
- 18 i. ~~Location and size of enhancement area;~~
- 19 ii. ~~Explanation of methods and techniques, such as construction practices to be used to implement the-~~
- 20 ~~identified enhancements;~~
- 21 iii. ~~Plant species, total number of plants, plant stock form, and spacing requirements;~~
- 22 iv. ~~If applicable, invasive species control plans;~~
- 23 v. ~~Methods and techniques for monitoring said mitigation and a proposed time frame for such-~~
- 24 ~~monitoring;~~
- 25 vi. ~~Contingency plans;~~
- 26 vii. ~~Discussion of anticipated increases in buffer functions.~~
- 27 3. ~~Applicants shall submit a preliminary habitat permit application to accompany preliminary site review plans-~~
- 28 ~~to the town.~~
- 29 4. ~~A final habitat permit application will incorporate all comments received during the review process.~~
- 30 5. ~~The town reserves the right to waive the final habitat permit requirements if the preliminary permit-~~
- 31 ~~application is deemed fully complete following the review of final construction plans. [Ord. 562 § 1, 2017; Ord.~~
- 32 ~~440 § 440.40.050, 2006.]~~

1 **16.40.060—Final permit approval.**

2 A. Findings. A decision of final permit approval shall be supported by findings of fact relating to the standards and
3 conditions of this chapter.

4 B. General Conditions. The following conditions apply to all applicants receiving a final habitat permit:

5 1. The entire habitat buffer will be placed in a conservation covenant running with the land that limits further
6 development or encroachment into the buffer as per the standards of this chapter.

7 2. Applicants required to perform habitat mitigation in the forms of enhancement shall be required to fulfill the
8 following obligations:

9 a. Posting of a cash performance bond to ensure that the proposed enhancements are successfully
10 completed. Bonds will be held for a period of three years following the completion of the proposed
11 impacts;

12 b. Monitoring and maintenance will be performed on a yearly basis for a period of five years to ensure
13 project success. Yearly monitoring reports will be submitted to the town for review and shall contain:

14 i. Photographs of the enhancement area taken from established locations;

15 ii. Mortality information for planted stock;

16 iii. Replanting requirements, if necessary;

17 iv. Discussion of general condition of enhancement area in terms of project goals established in
18 mitigation plan.

19 e. Enhancements must follow the guidelines set forth in YMC 16.40.030(B)(2)(a).

20 d. Plantings must achieve a 90 percent survival rate by the completion of the five year monitoring period.

21 3. The town of Yacolt reserves the right to extend the required monitoring period of any enhancement project
22 that has not been demonstrated to meet the conditions of YMC 16.40.030(B)(2) or subsection (B)(2)(d) of this
23 section. [Ord. 562 § 1, 2017; Ord. 440 § 440.40.060, 2006.]

1 **Chapter 16.45**
2 **WETLANDS**

3 Sections:

- 4 16.45.010 Introduction.
- 5 ~~16.45.020 Applicability.~~
- 6 ~~16.45.030 Wetland delineations.~~
- 7 ~~16.45.040 Wetland rating.~~
- 8 16.45.020 Wetland rating
- 9 16.45.030 Standards
- 10 ~~16.45.050 Wetland buffers.~~
- 11 ~~16.45.060 Wetland buffer activities.~~
- 12 ~~16.45.070 Wetland compensatory mitigation.~~
- 13 ~~16.45.080~~ 040 Wetland permits.
- 14 16.45.050 Wetland/Buffer Enhancement Plan
- 15

16 **16.45.010 Introduction.**

17 A. Wetlands and wetland buffers are important natural resources which can provide significant amounts of
18 important environmental functions that are beneficial to public health, safety, and general welfare. These functions
19 often include attenuation of floodwaters, maintenance of summer stream flows, filtration and uptake of pollutants,
20 recharge of ground water, support of characteristic vegetation, and providing important and unique fish and wildlife
21 habitat. Unregulated development adjacent to and within these sensitive areas can eliminate or significantly reduce
22 the ability of wetlands to provide these important functions. It is the purpose of this chapter to provide balanced
23 wetland protection measures pursuant to the Washington State Growth Management Act (GMA, RCW 36.70A.172)
24 that:

- 25
- 26 1. Include best available science to protect the functions and values of wetlands with special consideration
27 to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
- 28
- 29 2. Further the goal of no net loss of wetland functions;
- 30
- 31 3. Encourage restoration and enhancement of degraded and low quality wetlands;
- 32
- 33 4. Provide a high level of protection for higher-quality wetlands;
- 34
- 35 5. Complement state and federal wetland protective measures; and
- 36
- 37 6. Allow reasonable use of property.
- 38

39 **B. General.**

- 40 ~~1. Any nonexempt development proposal that impacts wetlands or wetland buffers subject to regulation under~~
41 ~~this chapter shall not be allowed without an approved mitigation or enhancement plan consistent with the~~
42 ~~requirements of YMC 16.45.080.~~
- 43 ~~2. The town shall not approve a development proposal that impacts wetlands or wetland buffers without a~~
44 ~~finding that:~~
 - 45 ~~a. The proposed activity shall not cause significant degradation of ground water or surface water quality or~~
46 ~~fish and wildlife habitat;~~

~~b. The proposed activity shall comply with all state, local, and federal laws, including those related to sediment control, pollution control, floodplain restrictions, stormwater management, and on-site wastewater disposal; and~~

~~e. Wetland and wetland buffer impacts shall be avoided or substantially minimized consistent with the mitigation sequencing criteria in YMC 16.20.040. [Ord. 562 § 1, 2017; Ord. 440 § 440.50.010, 2006.]~~

16.45.020 — Applicability.

B. Applicability

~~A₁. The provisions of this chapter apply to any land use or soil disturbance proposal that would occur on a site with wetlands or wetland buffers unless otherwise expressly exempted by this chapter. all land uses and development activity, and all structures and facilities in the Town, whether or not a permit or permit 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 Town. No person, company, agency, or applicant shall alter a wetland or wetland buffer except as consistent with this chapter.~~

2. The Town will 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 wetland or wetland buffer, without first ensuring compliance with the requirements of this chapter, including, but not limited to, the following development permits:

a. Building permit;

b. Grading permit;

c. Forest practices conversion permit regulated by WAC 222;

d. Conditional use permit;

e. Short subdivision;

f. Subdivision;

g. Planned unit development;

h. Site plan; or

i. Zoning variance.

3. Reasonable Use Exceptions. The following exceptions shall apply in implementing the standards of this chapter, although the standards shall be applied to the maximum extent practicable to avoid and minimize impacts on wetland functions and values. Mitigation for unavoidable adverse impacts shall be required. The standards of this chapter shall not be used to preclude the following activities in wetland areas:

a. The placement of a single-family residence and normal accessory structures on an otherwise legally buildable lot of record. Standards may be applied on established properties to limit the proposed location and size of structures, and proposed removal of vegetation.

(1) The expansion of a home on a lot that does not show building or development envelopes, wetlands or wetland buffers on the recorded plat, not to exceed twenty-five percent (25%) of the existing building footprint;

(2) The replacement of single-wide mobile home with another dwelling and normal accessory structures; and

(3) Fire hazard clearing recommended by the fire marshal, or consistent with written fire marshal or fire chief guidelines.

1
2 b. The standards of this chapter shall not be used to deny all reasonable economic use of private property. The
3 following criteria must be met in order to verify that all reasonable economic use of the property has been
4 denied:

5
6 (1) The application of this chapter would deny all reasonable economic use of the property;

7
8 (2) No other reasonable economic use of the property has less impact on the wetland and buffer area;

9
10 (3) Any wetland or buffer alteration is the minimum necessary to allow for reasonable economic use of
11 the property; and

12
13 c. The application of this chapter shall not be used to deny a development proposal for a linear facility from a
14 public agency or public utility, provided the agency or utility meets the following criteria:

15
16 (1) There is no practical alternative to the proposed project with less impact on the wetland and buffer
17 area; and

18
19 (2) The application of this chapter would unreasonably restrict the ability to provide public utility
20 services to the public.

21
22 d. Approval of a development permit application pursuant to the provisions of this division does not discharge
23 the obligation of the applicant to comply with the provisions of this chapter.

24
25 4. Exemptions.

26 1. Exempt Activities and Impacts to Wetlands. All exempted activities shall use reasonable
27 methods to avoid potential impacts to wetlands and buffers. Exemptions from permits are not
28 exemptions from wetland stewardship responsibilities. The following developments, activities, and
29 associated uses shall be exempt from the provisions of this chapter; provided, that they are otherwise
30 consistent with the provisions of other local, state, and federal laws and requirements:

31
32 a. Reconstruction of damaged or destroyed structures within the same building footprint.
33 Expansion or reconstruction within a new or expanded footprint that affects a nonexempt wetland or
34 wetland buffer is subject to the provisions of this title.

35
36 b. The harvesting or normal maintenance of vegetation in a manner that is not injurious to the
37 natural reproduction of such vegetation.

38
39 c. Existing agricultural activities and structures:

40
41 (1) Agricultural activities and structures in operation at the time of adoption of the ordinance
42 codified in this chapter that are affecting wetlands not associated with a riparian corridor are
43 exempt from regulation under this chapter;

44
45 (2) Changes in agricultural practices within the same "footprint" as the existing agricultural
46 activities in subsection (C)(1)(c)(1) of this section, including reconstruction of existing
47 agricultural structures, or construction of new agricultural structures, are exempt from regulation
48 under this chapter;

49
50 (3) Agricultural activities and structures in operation at the time of adoption of the ordinance
51 codified in this chapter that are affecting wetlands associated with riparian corridors shall be
52 regulated through Chapter 16.40, Habitat Conservation.

1 d. The removal or eradication of noxious weeds so designated in Title 8 of this code or other
2 exotic nuisance plants including non-native blackberries; provided, that ground disturbing heavy
3 machinery (scraping, ripping, etc.) is not used. Cutting, mowing, and ground disturbance with hand
4 tools is allowed.

5
6 e. Site investigative work necessary for land use application submittals such as surveys, soil logs,
7 and percolation tests.

8
9 f. Emergency clearing to abate immediate danger to persons or property. For emergency clearing
10 of hazard trees, remove only that portion of the hazard tree as necessary to remediate the hazard.

11
12 g. Clearing necessary for the emergency repair of utility or public facilities. Notification of
13 emergency work that causes substantial degradation to functions and values must be reported in a
14 timely manner.

15
16 h. Clearing for operation, maintenance, or repair of existing utilities or public facilities that does
17 not further increase the impact to, or encroach further within, the wetland or wetland buffer.

18
19 i. Clearing, as minimally necessary, for placement of fencing, private wells, septic systems or
20 individual lot sewer, water, electrical, or utility connections in wetland buffers, where practical
21 alternatives do not exist.

22
23 j. Clearing, as minimally necessary, for stream bank restoration, for native replanting or
24 enhancements in wetlands and wetland buffers.

25
26 k. Clearing, as minimally necessary, for soil, water, vegetation and resource conservation projects
27 having received an environmental permit from a public agency in wetlands and wetland buffers.

28
29 l. Clearing, as minimally necessary, for creating a four (4) foot or narrower path using natural,
30 wood-based or vegetated pervious surfacing in wetlands and wetland buffers.

31
32 m. Land disturbance in wetlands and wetland buffers cumulatively less than five (5) cubic yards in
33 volume and three hundred (300) square feet in area; provided, that the wetland hydroperiod is not
34 significantly affected.

35
36 B5 Exempted Wetlands Exemptions. This chapter shall not apply to the following wetlands:

37 1. Small. All wetlands less than 1,000 square feet in area and Category 3 and 4 wetlands between 1,000 and
38 4,000 square feet in area.

39 2. Artificial. Wetlands intentionally created from nonwetland upland sites including, but not limited to,
40 irrigation and drainage ditches, grass-lined swales, canals, ~~retention~~ detention facilities, stormwater
41 management facilities, farm ponds, ~~and~~ landscape amenities; and unintentionally created wetlands created as a
42 result of the construction of a public or private road, street, or highway after July 1, 1990; provided, that
43 wetlands created as mitigation shall not be exempted.

44 3. Riparian. Wetlands less than five (5') feet ~~wide above~~ measured horizontally, of bank-full width for streams.
45 the ordinary high water mark along for streams and lakes which are regulated under the State Shorelines-
46 Management Act. [Ord. 562 § 1, 2017; Ord. 440 § 440.50.020, 2006.]

47 6. Interpretation.

48 1. This chapter shall apply in addition to zoning and other regulations adopted by the town.

49
50 2. When there is a conflict between any provisions of this chapter or any other regulations adopted by
51 Yacolt, that providing the most protection to affected critical areas shall apply.

1
2 3. Compliance with this chapter does not constitute compliance with other federal, state and local
3 regulations and permit requirements (for example, shoreline substantial development permits, hydraulic project
4 approval (HPA) permits, Section 106 of the National Historic Preservation Act, U.S. Army Corps of Engineers
5 Section 404 permits, National Pollutant Discharge Elimination System (NPDES) permits, or DOE Section 401
6 Water Quality Certification). The applicant is responsible for complying with all requirements, apart from the
7 provisions of this chapter.
8

9 **16.45.030 — Wetland delineations.**

10 ~~The location of a wetland and its boundary shall be determined through the performance of a field investigation, to~~
11 ~~be performed by a qualified wetland professional. Wetland delineations are the responsibility of the applicant. The~~
12 ~~town will maintain a list of wetland consultants on file to assist applicants in completing the requirements of this~~
13 ~~chapter.~~

14 ~~A. Methodology. Delineations shall be performed in accordance with the methodologies contained in the~~
15 ~~Washington State Wetland Identification and Delineation Manual (Publication No. 96-94) and the 1987 U.S. Corps~~
16 ~~of Engineers Wetlands Delineation Manual or the most current editions adopted by these agencies. The applicant~~
17 ~~shall be responsible for the cost of the professional services. If a wetland is located on an adjacent parcel such that~~
18 ~~the wetland buffer may extend onto the proposed development site, the applicant shall use all reasonable resources~~
19 ~~to determine the wetland boundary and category and buffer type.~~

20 ~~B. Information Requirements. Wetland boundaries shall be staked and flagged in the field and a delineation report~~
21 ~~shall be submitted to the town. The report shall include the following information:~~

- 22 1. ~~USGS topographic map with site clearly defined;~~
23 2. ~~National wetland inventory map showing site;~~
24 3. ~~Soil Conservation Service soils map of the site;~~
25 4. ~~Site map, at a scale no smaller than one inch equals 400 feet, if practical, showing the following information:~~
26 a. ~~Wetland boundaries;~~
27 b. ~~Sample sites and sample transects;~~
28 c. ~~Boundaries of forested areas;~~
29 d. ~~Boundaries of wetland classes if multiple classes exist.~~
30 5. ~~An aerial photograph of the project area (scale no smaller than one inch equals 400 feet);~~
31 6. ~~Discussion of methods and results with special emphasis on technique used from the wetlands delineation~~
32 ~~manual;~~
33 7. ~~Acreage of each wetland identified on the site based on a survey;~~
34 8. ~~All completed field data sheets (U.S. Army Corps of Engineers' format for three parameter application)~~
35 ~~numbered to correspond to each sample site;~~
36 9. ~~Name and contact information of the applicant and primary author(s) of the wetland critical area report;~~
37 10. ~~Narratives describing the following information:~~
38 a. ~~Existing conditions on the site;~~
39 b. ~~Vegetation compositions;~~

- 1 e. ~~Extent of recent disturbance if any;~~
- 2 d. ~~Existing and probably past uses;~~
- 3 e. ~~Information concerning how the wetland boundary was identified.~~

4 C. Verification of wetland boundaries as flagged in the field is the responsibility of the applicant. Verifications from
5 the U.S. Army Corps of Engineers or Washington State Department of Ecology or Clark County shall suffice for the
6 purpose of implementation of this chapter. [Ord. 562 § 1, 2017; Ord. 440 § 440.50.030, 2006.]

7 **16.45.04020 Wetland rating.**

8 A. ~~The Wetlands shall be rated according to the Washington State Department of Ecology's wetland rating system~~
9 ~~found in the Washington State Wetland Rating System for Western Washington-Revised (Ecology Publication No.~~
10 ~~04-06-025, August 2004) or as revised by Ecology, is used to determine wetland categories, base buffer widths and~~
11 ~~to determine mitigation and enhancement requirements.~~

12 1. ~~The determination of the specific category of wetland and buffer type for each wetland shall be the~~
13 ~~responsibility of the town.~~

14 2. ~~A single wetland may be classified into more than one category if distinct areas exist in the wetland that~~
15 ~~clearly meet the description of separate categories and comprises at least 20 percent of the total area of the~~
16 ~~entire wetland complex.~~

17 3. ~~Wetlands that are enhanced to meet the criteria for a higher category are classified and regulated according to~~
18 ~~the characteristics and rating of the original wetland.~~

19 B. Wetland Rating System. The rating system contains a general description of each wetland category followed by
20 specific criteria. If the specific criteria conflicts with the general description, the town shall determine the most
21 appropriate classification as applied to a particular site. The rating system document contains the definitions and
22 methods for determining if the criteria below are met:

23 1. Category I. Category I wetlands are:

24 a. Relatively undisturbed estuarine wetlands larger than one (1) acre;

25 b. Wetlands that are identified by scientists of the Washington Natural Heritage Program as high-quality
26 wetlands;

27 c. Bogs ~~larger than one half acre;~~

28 d. Mature and old-growth forested wetlands larger than one acre; and

29 e. ~~Wetlands in coastal lagoons; and~~

30 f. Wetlands that perform many functions at high levels well (scoring ~~70~~ twenty three (23) points or more)
31 on the rating form. These wetlands:

32 i. Represent unique or rare wetland types;

33 ii. Are more sensitive to disturbances than most wetlands;

34 iii. Are relatively undisturbed and contain ecological attributes that are impossible to replace within a
35 human lifetime; or

36 iv. Provide a high level of functions.

37 2. Category II. Category II wetlands are wetlands that perform functions well, as characterized by a score of
38 twenty (20) through twenty two (22) on the rating form.;

- 1 a. ~~Estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre;~~
- 2 b. ~~Wetlands identified by the Washington State Department of Natural Resources as containing “sensitive”~~
- 3 ~~plant species;~~
- 4 c. ~~Bogs between one quarter and one half acre;~~
- 5 d. ~~Interdunal wetlands larger than one acre; or~~
- 6 e. ~~Wetlands with a moderately high level of functions.~~

7 3. Category III. Category III wetlands are:

- 8 a. ~~Wetlands with a moderate level of functions (scoring between 30 and 50~~ sixteen (16) and nineteen (19)
- 9 points); Generally, wetlands in this category have been disturbed in some ways and are often less diverse
- 10 or more isolated from other natural resources in the landscape than Category II wetlands. and
- 11 b. ~~Interdunal wetlands between one tenth and one acre.~~

12 ~~Wetlands scoring between 30 and 50 points generally have been disturbed in some ways and are often less-~~

13 ~~diverse or more isolated from other natural resources in the landscape than Category II wetlands.~~

14 4. Category IV wetlands have the lowest levels of functions (scoring less than ~~30~~ sixteen (16) points) and are

15 often heavily disturbed. These are wetlands that we should be able to replace, or in some cases may be

16 improved, to improve. However, experience has shown that replacement cannot be guaranteed in any specific

17 case. These wetlands may provide some important functions, and ~~should~~ also need to be protected to some-

18 degree.

19 C. Date of Wetland Rating. Wetland rating categories shall be applied as the wetland exists on the date of adoption

20 of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes

21 in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

22 [Ord. 562 § 1, 2017; Ord. 440 § 440.50.040, 2006.]

23 **16.45.030 Standards**

24 A. General. The standards apply whenever a nonexempt project (see division 16.45.010 (B)) is proposed

25 on a parcel of real property containing a nonexempt wetland or wetland buffer (see division 16.45.010

26 (B)(4).

27

28 1. For the purpose of computing the processing limitation period applicable to a development

29 permit application, the application shall not be deemed fully complete until completion (if required)

30 of the wetland determination pursuant to division 16.45.030 (C), the wetland delineation pursuant to

31 Section 16.45.030 (D), and the buffer designation pursuant to division 16.45.030 (E)(1). This

32 subsection shall not be construed in any way to delay vesting under Washington law.

33

34 2. Administrative appeals of determinations made under this division 16.45.030 must be filed in

35 conjunction with, and within the limitation period applicable to, an available administrative appeal of

36 the development permit application; provided, that an aggrieved party may appeal preliminary

37 decisions deciding an exemption, determining or delineating a wetland, determining a buffer, or

38 otherwise finally applying the provisions of this chapter in the same manner, and within the limitation

39 period applicable to, appeals from responsible official decisions under YMC 16.05.220.

40

41 **B. Binding Pre-Determination.**

42

43 Prior to submittal of a triggering application, a person may request from the responsible official, a

44 written binding pre-determination of whether a probable regulated wetland area exists on or within one

45 hundred feet (100') of any parcel less than forty (40) acres. The pre-determination shall be binding on

1 the responsible official for a period of three (3) years; provided, that such pre-determination shall be
2 subject to administrative appeal upon its application in conjunction with a triggering application.

3
4 C. Wetland Determination.

5
6 In conjunction with the submittal of a development permit application, the responsible official shall
7 determine the probable existence of a wetland on the parcel involved in the development permit
8 application. If wetlands or wetland buffers are found to exist on a parcel, wetland delineation is
9 required.

10
11 D. Wetland Delineation.

12 1. Methodology. The location of a wetland and its boundary shall be determined through the performance
13 of a field investigation utilizing the methodology contained in the Wetlands Delineation Manual. If a
14 wetland is located off-site and is inaccessible, the best available information shall be used to determine the
15 wetland boundary and category.

16 2. Information Requirements. Wetland boundaries shall be staked and flagged in the field and a
17 delineation report shall be submitted to the department. The report shall include the following information:

18 a. USGS quadrangle map with site clearly defined;

19 b. Topographic map of area;

20 c. National wetland inventory map showing site;

21 d. Soil Conservation Service soils map showing site;

22 e. Site map, at a scale no smaller than one (1) inch equals one hundred (100) feet (1" = 100', a scaling
23 ratio of 1:1,200), if practical, showing the following information:

24 (1) Wetland boundaries,

25 (2) Sample sites and sample transects,

26 (3) Boundaries of forested areas,

27 (4) Boundaries of wetland classes if multiple classes exist;

28 f. Discussion of methods and results with special emphasis on technique used from the Wetlands
29 Delineation Manual;

30 g. Acreage of each wetland on the site based on the survey if the acreage will impact the buffer size
31 determination or the project design;

32 h. All completed field data sheets per the Wetlands Delineation Manual, numbered to correspond to
33 each sample site.

34 3. Responsibility. The wetland delineation is the responsibility of the applicant. The responsible official
35 shall verify the accuracy of the boundary delineation within twenty eight (28) working days of receiving
36 the delineation report. This review period may be extended when excessively dry conditions prohibit the
37 confirmation of the wetland delineation. If the delineation is found to not accurately reflect the boundary of
38 the wetland, the responsible official shall issue a report, within twenty eight (28) working days of receiving
39 the applicant's delineation report, citing evidence (for example, soil samples) that demonstrates where the
40 delineation is in error. The applicant may then either revise the delineation and submit another report or
41 administratively appeal.

16.45.050 — Wetland buffers

E. Buffers. Wetland buffer widths shall be determined by the responsible official in accordance with the standards below:

A. General:

1. A single wetland may contain buffers of more than one category as long as each category represents at least 25 percent of the total buffer area.

2. All buffers shall be measured perpendicularly outward from the delineated wetland boundary.

3. Portions of wetland buffers may be deemed functionally isolated if they are separated from the wetland in a manner that effectively limits buffer functions. Buffers deemed functionally isolated are exempt from regulation under this chapter. Portions of buffers may be deemed functionally isolated if at least one of the following conditions exist:

a. Paved roads greater than 20 feet in width;

b. Permanent buildings or structures that will not be removed as part of the triggering application.

4. The determination of the specific buffer category shall be the responsibility of the applicant and be subject to review and concurrence by town staff.

5. Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the hearing examiner. In addition, signs (minimum size one foot by one foot and posted three and one half feet above grade) shall be posted at an interval of one per lot or every 100 feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the wetland buffer worded substantially as follows: WETLAND BUFFER — PLEASE — RETAIN IN A NATURAL STATE.

6. Marking Buffer during Construction. The location of the outer extent of the wetland buffer shall be marked in the field and such markings shall be maintained throughout the duration of the permit.

B. Buffer Widths.

1. All buffers shall be measured horizontally outward from the delineated wetland boundary or, in the case of a stream with no adjacent wetlands, the ordinary high water mark as surveyed in the field.

2. Buffer widths, which are based on wetland category and modified by the intensity of the impacts from the proposed land uses, are as follows:

Table 16.45.030-1 Buffers Required to Protect Water Quality Functions

Category of Wetland	Land Use with Low-Impact	Land Use with Moderate-Impact	Land Use with High-Impact
IV	25 feet	40 feet	50 feet
III	75 feet	110 feet	150 feet
II	150 feet	225 feet	300 feet
I	150 feet	225 feet	300 feet

1
2
3

<u>Wetland Rating</u>	<u>Low Intensity Use</u>	<u>Moderate Intensity Use</u>	<u>High Intensity Use</u>
<u>Category I</u>	<u>50 ft.</u>	<u>75 ft.</u>	<u>100 ft.</u>
<u>Category II</u>	<u>50 ft.</u>	<u>75 ft.</u>	<u>100 ft.</u>
<u>Category III</u>	<u>40 ft.</u>	<u>60 ft.</u>	<u>80 ft.</u>
<u>Category IV</u>	<u>25 ft.</u>	<u>40 ft.</u>	<u>50 ft.</u>

4
5
6
7

3. Buffer widths to protect habitat functions in Category I, II, and III wetlands, which are based on wetland category and modified by the intensity of the impacts from the proposed land uses, are as follows:

Table 16.45.030-2 Buffers Required to Protect Habitat Functions in Wetlands

<u>Habitat Score in the Rating Form</u>	<u>Low Intensity Use</u>	<u>Moderate Intensity Use</u>	<u>High Intensity Use</u>
<u>4 points or less</u>	<u>See Table 16.45.030-1</u>	<u>See Table 16.45.030-1</u>	<u>See Table 16.45.030-1</u>
<u>5 to 7 points</u>	<u>75 ft.</u>	<u>110 ft.</u>	<u>150 ft.</u>
<u>8 or 9 points</u>	<u>150 ft.</u>	<u>225 ft.</u>	<u>300 ft.</u>

8
9
10

4. See table below for types of land uses that can result in low, moderate, and high impacts to wetlands.

Table 16.45.030-2 3 Land Use Intensity Matrix

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
High	<ul style="list-style-type: none"> • Commercial • Urban • Industrial • Institutional • Retail sales • Residential (more than 1 unit/acre)

Level of Impact from Proposed Change in Land Use	Types of Land Use Based on Common Zoning Designations
	<ul style="list-style-type: none"> • Conversion to high-intensity agriculture (dairies, nurseries, greenhouses, growing and harvesting crops requiring annual tilling and raising and maintaining animals, etc.) • High-intensity recreation (golf courses, ball fields, etc.) • Hobby farms
Moderate	<ul style="list-style-type: none"> • Residential (1 unit/acre or less) • Moderate-intensity open space (parks with biking, jogging, etc.) • Conversion to moderate-intensity agriculture (orchards, hay fields, etc.) • Paved trails • Building of logging roads • Utility corridor or right-of-way shared by several utilities and including access/maintenance road
Low	<ul style="list-style-type: none"> • Forestry (cutting of trees only) • Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.) • Unpaved trails • Utility corridor without a maintenance road and little or no vegetation management

- 1
- 2 C. Ratings. ~~Wetland buffer classifications are identical to the habitat buffer types detailed in YMC 16.40.30(B).~~
- 3 D. Exemptions. ~~The following activities within a wetland buffer are not subject to regulation under this chapter:~~
- 4 1. ~~Hand clearing of nonnative, invasive plant species;~~
- 5 2. ~~Emergency clearing to abate immediate danger to persons or property;~~
- 6 3. ~~Remodel, replacement, or expansion, not to exceed 25 percent of the 2004 footprint, of existing home or~~
- 7 ~~existing accessory buildings inside habitat areas. Home remodels, replacements, or expansions of up to 500-~~
- 8 ~~square feet, or mobile home replacements of single wide with double wide models are also exempt;~~
- 9 4. ~~Nondevelopment clearing activities in wetland buffer areas consistent with a recorded stewardship plan for~~
- 10 ~~which any mitigation specified in the plan is timely completed;~~
- 11 5. ~~Construction of permeable surface pedestrian trails no greater than five feet in width located within the outer~~
- 12 ~~25 percent of a wetland buffer; provided, that:~~
- 13 a. ~~Trail construction does not include mechanized grading;~~
- 14 b. ~~No trees with a DBH greater than 12 inches are removed;~~
- 15 c. ~~Removal of native vegetation is minimized;~~
- 16 d. ~~Signage as per subsection A of this section is included as part of the trail construction. [Ord. 562 § 1,~~
- 17 ~~2017; Ord. 440 § 440.50.050, 2006.]~~
- 18 **16.45.060 — Wetland buffer activities.**

1 F. Standard Requirements. Any action granting or approving a development permit application shall be
2 conditioned on the following:

3
4 1. Marking buffer during construction. The location of the outer extent of the wetland buffer shall be marked
5 in the field and such markings shall be maintained throughout the duration of the permit.

6
7 2. Permanent Marking of Buffer Area. A permanent physical demarcation along the upland boundary of the
8 wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or
9 hedge row, fencing, or other prominent physical marking approved by the responsible official. In addition,
10 small signs shall be posted at an interval of one (1) per lot or every one hundred (100) feet, whichever is less,
11 and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the
12 responsible official worded substantially as follows:

13
14 Wetland and Buffer –

15 Please retain in a natural state

16
17
18 3. A conservation covenant shall be recorded in a form approved by the Town Attorney as adequate to
19 incorporate the other restrictions of this section and to give notice of the requirement to obtain a wetland permit
20 prior to engaging in regulated activities within a wetland or its buffer.

21
22 4. In the cases of plats, short plats, and recorded site plans, include on the face of such instrument the
23 boundary of the wetland and its buffer and a reference to the separately recorded conservation covenant
24 provided for in division 16.45.030 (F)(3).

25
26 G. Standard Requirements – Waivers. The responsible official shall waive the requirements of divisions 16.45.030
27 (D) and (F) in certain cases described below if the applicant designates development envelopes which are clearly
28 outside of any wetland or buffer. The responsible official may require partial wetland delineation to the extent
29 necessary to ensure eligibility for this waiver:

30 1. Residential building permits and home businesses;

31 2. Land divisions;

32 a. Development envelopes shall be required for a fully complete preliminary application;

33 b. Development envelopes shall be shown on the final plat; and

34 c. A note referencing the development envelopes shall be placed on the final plat.

35 3. Site plan reviews where the responsible official determines that all development is clearly separated from
36 the wetlands and wetland buffers:

37 a. Development envelopes shall be required for a fully complete preliminary application;

38 b. Development envelopes shall be shown on the final site plan; and

39 c. A note referencing the development envelopes shall be placed on the final site plan.

40
41 H. Mitigation Plans.

42
43 1. General. Mitigation plans are required for activities in a buffer or wetland. Content requirements which are
44 inappropriate and inapplicable to a project may be waived by the responsible official upon request of the
45 applicant at or subsequent to the pre-application consultation provided for in division 16.45.040 (C).

46 2. Preliminary Mitigation Plan. The purpose of the preliminary plan is to determine the feasibility of the
47 project before extensive resources are devoted to the project. The responsible official may waive the
48 requirement for a preliminary mitigation plan when a wetland permit is not associated with a development
49 permit application (listed in division 16.45.010 (B). The preliminary mitigation plan consists of two (2) parts:

1 baseline information for the site and a conceptual plan. If off-site wetland mitigation is proposed, baseline
2 information for both the project site and mitigation site is required.

3 a. Baseline information shall include:

4 (1) Wetland delineation report as described in division 16.45.030 (D)(2);

5 (2) Copies of relevant wetland jurisdiction determination letters, if available, such as determinations of
6 prior converted crop lands, correspondence from state and federal agencies regarding prior wetland
7 delineations, etc.;

8 (3) Description and maps of vegetative conditions at the site;

9 (4) Description and maps of hydrological conditions at the site;

10 (5) Description of soil conditions at the site based on a preliminary on-site analysis;

11 (6) A topographic map of the site; and

12 (7) A functional assessment of the existing wetland and buffer.

13 (a) Application of the rating system in division 16.45.020 (B) will generally be considered sufficient
14 for functional assessment;

15 (b) The responsible official may accept or request an alternate functional assessment methodology
16 when the applicant's proposal requires detailed consideration of specific wetland functions;

17 (c) Alternate functional assessment methodologies used shall be scientifically valid and reliable.

18 b. The contents of the conceptual mitigation plan shall include:

19 (1) Goals and objectives of the proposed project;

20 (2) A wetland buffer width reduction plan, if width reductions are proposed, that includes:

21 (a) The land use intensity, per Table 16.45.030-2, of the various elements of the development
22 adjacent to the wetlands;

23 (b) The wetland buffer width(s) required by Tables 16.45.030-1 and 16.45.030-2;

24 (c) The proposed buffer width reductions, including documentation that proposed buffer width
25 reductions fully protect the functions of the wetland in compliance with division 16.45.040 (C);

26 (3) A wetland mitigation plan that includes:

27 (a) A sequencing analysis for all wetland impacts;

28 (b) A description of all wetland impacts that require mitigation under this chapter; and

29 (c) Proposed mitigation measures and mitigation ratios;

30 (4) Map showing proposed wetland and buffer. This map should include the existing and proposed
31 buffers and all proposed wetland impacts regulated under this chapter;

32 (5) Site plan;

33 (6) Discussion and map of plant material to be planted and planting densities;

34 (7) Preliminary drainage plan identifying location of proposed drainage facilities including detention
35 structures and water quality features (e.g., swales);

36 (8) Discussion of water sources for all wetlands on the site;

37 (9) Project schedule;

38 (10) Discussion of how the completed project will be managed and monitored; and

39 (11) A discussion of contingency plans in case the project does not meet the goals initially set for the
40 project.

41 3. Final Mitigation Plan. The contents of the final mitigation plan shall include:

42 a. The approved preliminary mitigation plan and all conditions imposed on that plan. If the preliminary
43 mitigation plan requirement is waived, the final plan shall include the content normally required for the
44 preliminary plan listed in divisions 16.45.030 (H)(2)(a), (H)(2)(b)(1), and (H)(2)(b)(2).

45 b. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and
46 objectives of the mitigation project are being met. Such criteria may include water quality standards,
47 survival rates of planted vegetation, species abundance and diversity targets, habitat diversity indices, or
48 other ecological, geological or hydrological criteria.

49 c. Detailed Construction Plans. Written specifications for the mitigation project shall be provided. The
50 specifications shall include: the proposed construction sequence, grading and excavation details, water and
51 nutrient requirements for planting, specification of substrate stockpiling techniques, and planting
52 instructions, as appropriate. These written specifications shall be accompanied by detailed site diagrams,

1 scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and
2 any other drawings appropriate to show construction techniques or anticipated final outcome.

3 d. Monitoring Program. The mitigation plan shall include a description of a detailed program for
4 monitoring the success of the mitigation project.

5 (1) The mitigation project shall be monitored for a period necessary to establish that the mitigation is
6 successful, but not for a period of less than five (5) years. Creation and forested wetland mitigation
7 projects shall be monitored for a period of at least ten (10) years;

8 (2) Monitoring shall be designed to measure the performance standards outlined in the mitigation plan
9 and may include but not be limited to:

10 (a) Establishing vegetation plots to track changes in plant species composition and density over
11 time;

12 (b) Using photo stations to evaluate vegetation community response;

13 (c) Sampling surface and subsurface waters to determine pollutant loading, and changes from the
14 natural variability of background conditions (pH, nutrients, heavy metals);

15 (d) Measuring base flow rates and stormwater runoff to model and evaluate water quality
16 predictions, if appropriate;

17 (e) Measuring sedimentation rates, if applicable; and

18 (f) Sampling fish and wildlife populations to determine habitat utilization, species abundance and
19 diversity;

20 (3) A monitoring protocol shall be included outlining how the monitoring data will be evaluated by
21 agencies that are tracking the progress of the project;

22 (4) Monitoring reports shall be submitted annually, or on a pre-arranged alternate schedule, for the
23 duration of monitoring period;

24 (5) Monitoring reports shall analyze the results of monitoring, documenting milestones, successes,
25 problems, and recommendations for corrective and/or contingency actions to ensure success of the
26 mitigation project.

27 e. Associated Plans and Other Permits. To ensure consistency with the final mitigation plan, associated
28 plans and permits shall be submitted, including, but not limited to:

29 (1) Engineering construction plans;

30 (2) Final site plan or proposed plat;

31 (3) Final landscaping plan;

32 (4) Habitat permit;

33 (5) WDFW HPA;

34 (6) USACE Section 404 permit; and

35 (7) WDOE Administrative Order or Section 401 certification.

36 f. Evidence of Financial and Scientific Proficiency. A description of how the mitigation project will be
37 managed during construction and the scientific capability of the designer to successfully implement the

1 proposed project. In addition, a demonstration of the financial capability of the applicant to successfully
2 complete the project and ensure it functions properly at the end of the specific monitoring period.
3 g. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken
4 when monitoring or evaluation indicates project performance standards are not being met.
5
6

7 **16.45.040 Wetland permits**

8
9 **A. General.**

- 10 1. A wetland permit is required for any development activity that is not exempt pursuant to division 16.45.010
11 D within wetlands and wetland buffers.
12 2. Standards for wetland permits are provided in division 16.45.030.
13 3. All wetland permits require approval of a preliminary and final enhancement/mitigation plan in accordance
14 with the provisions of division 16.45.040 E unless the preliminary enhancement/mitigation plan requirement is
15 waived under the provisions of division 16.45.030 H(2).
16 5. Wetland permit application, processing, preliminary approval, and final approval procedures are set out in
17 divisions 16.45.040 (C) and (D).
18 6. Provisions for programmatic permits are provided by division 16.45.050 E.
19 7. Provisions for emergency wetland permits are provided by division 16.45.050 F.
20

21 **B. Standards – General. Wetland permit applications shall be based upon a mitigation plan and shall satisfy the**
22 **following general requirements:**

- 23 1. The proposed activity shall not cause significant degradation of wetland functions;
24 2. The proposed activity shall comply with the Town of Yacolt's Stormwater Management Plan, YMC 13.10..
25

26 **C. Buffer Standards and Authorized Activities. The following additional standards apply for regulated activities in**
27 **a wetland buffer:**

28 1. Reduced Width Based on Modification of Land Use Intensity. The required buffer width shall be decreased if
29 design techniques are used that reduce the land use intensity category delineated in Table 16.45.030-2. Eligible
30 design measures include the following:

31
32 **a. General Site Design Measures. High intensity buffers may be reduced to moderate intensity buffers if all of the**
33 **following mitigation measures are applied to the greatest extent practicable:**

- 34 (1) Buffer Enhancement. Improve the function of the buffer such that buffer areas with reduced function can
35 function properly. This could include the removal and management of noxious weeds and/or invasive vegetation
36 or specific measures to improve hydrologic or habitat function.
37 (2) Shielding of High Intensity Uses.
38 (a) Lights. Direct all lights away from wetlands;
39 (b) Noise. Locate activity that generates noise away from wetlands;
40 (c) Pets and Human Disturbance. Use privacy fencing; plant dense vegetation to delineate buffer edge and
41 to discourage disturbance using vegetation appropriate for the eco-region; place wetland and its buffer in a
42 separate tract.
43

44 **b. Habitat Corridors. Establishment of a minimum one hundred (100) foot wide functioning or enhanced vegetated**
45 **corridor between the wetland and any other priority habitat areas as defined by the Washington State Department of**

1 Fish and Wildlife reduces a high land use intensity buffer to a moderate land use intensity buffer provided both of
2 the following conditions are met:

- 3 (1) Applies only to wetlands with habitat function scores higher than four (4) on the rating system form;
4 (2) The habitat corridor must be protected for the entire distance between the wetland and the priority habitat
5 area by some type of permanent legal protection such as a covenant or easement.

6
7 c. The responsible official may determine that proposed measures, other than those specifically listed in division
8 16.45.040 (C) (a) and (b), will effectively reduce land use intensity and protect or enhance and values of wetlands
9 and, therefore, allow buffer modifications where appropriate.

10
11 2. Buffer Averaging. The boundary of the buffer zone may be modified by averaging buffer widths. If buffer
12 averaging is used, the following conditions must be met:

13 a. A maximum of twenty-five percent (25%) of the total required buffer area on the site (after all reductions
14 are applied) may be averaged; and

15 b. The total area contained in the buffer, after averaging, shall be at least functionally equivalent and equal in
16 size to the area contained within the buffer prior to averaging.

17 A3. Road and Utility Crossings. Crossing buffers with new roads and utilities is allowed provided all of the
18 following conditions are met:

19 1a. Buffer functions, as they pertain to protection of the adjacent wetland and its functions, are replaced
20 according to the ratios determined in YMC 16.45.070 based on the quality of the impacted buffer type;

21 2b. Impacts to the buffer and wetland are minimized; and

22 3c. The use of best management practices in maintaining existing utility corridors where such maintenance
23 activities do not expand further into the critical area.

24 B4. Stormwater Management Facilities. Stormwater treatment and flow control facilities shall not be built within a
25 natural vegetated buffer, except for:

26 1a. Necessary conveyance systems as approved by the local government; or

27 2b. As allowed in wetlands approved for hydrologic modification and/or treatment in accordance with the
28 Town of Yacolt's Stormwater Management Plan, YMC 13.10. Guidesheet 1B in Appendix 1 D of Washington-
29 State Department of Ecology's Stormwater Management Manual for Western Washington (2001).

30 C5. Other Activities in a Wetland Buffer. Regulated activities not involving stormwater management facilities or
31 road and utility crossings are allowed provided all of the following conditions are met:

32 1a. The activity is temporary and will cease or be completed within three (3) months of the date the activity
33 begins;

34 2b. The activity will not result in a permanent structure in or under the buffer;

35 3c. The activity will not result in the reduction of buffer acreage, type, or functions;

36 4d. The activity will not result in a reduction of wetland acreage, classification, or functions. [Ord. 562 § 1,
37 2017; Ord. 440 § 440.50.060, 2006.]

38 D. Standards – Wetland Activities. The following additional standards apply to the approval of all activities
39 permitted within wetlands under this division:

40 1. Sequencing. Applicants shall demonstrate that a range of project alternatives have been given substantive
41 consideration with the intent to avoid or minimize impacts to wetlands. Documentation must demonstrate that
42 the following hierarchy of avoidance and minimization has been pursued:

- 1 a. Avoid impacts to wetlands unless the responsible official finds that:
- 2 (1) For Category III and IV wetlands, avoiding all impact will result in a project that is either:
- 3 (a) Inconsistent with the Town of Yacolt Comprehensive Growth Management Plan;
- 4 (b) Inconsistent with county-wide critical area conservation goals; or
- 5 (c) Not feasible to construct.
- 6 (b). Minimize impacts to wetlands if complete avoidance is infeasible. The responsible official must find that
- 7 the applicant has limited the degree or magnitude of impact to wetlands by using appropriate technology and by
- 8 taking affirmative steps to reduce impact through efforts such as:
- 9 (1) Seeking easements or agreements with adjacent land owners or project proponents where appropriate;
- 10 (2) Seeking reasonable relief that may be provided through application of other town zoning and design
- 11 standards;
- 12 (3) Site design; and
- 13 (4) Construction techniques and timing.
- 14 (c). Compensate for wetland impacts that will occur, after efforts to minimize have been exhausted. The
- 15 responsible official must find that:
- 16 (1) The affected wetlands are restored to the conditions existing at the time of the initiation of the project;
- 17 (2) Unavoidable impacts are mitigated in accordance with this subsection; and
- 18 (3) The required mitigation is monitored and remedial action is taken when necessary to ensure the
- 19 success of mitigation activities.
- 20 2. Location of Wetland Mitigation. Wetland mitigation for unavoidable impacts shall be located using the
- 21 following prioritization:
- 22 a. On-site. Locate mitigation according to the following priority:
- 23 (1) Within or adjacent to the same wetland as the impact;
- 24 (2) Within or adjacent to a different wetland on the same site;
- 25 b. Off-site. Locate mitigation within the same watershed, as shown on Figure 16.45.040-1, or use an
- 26 established wetland mitigation bank; the service area determined by the mitigation bank review team and
- 27 identified in the executed mitigation bank instrument;
- 28 c. In-kind. Locate or create wetlands with similar landscape position and the same hydro-geomorphic
- 29 (HGM) classification based on a reference to a naturally occurring wetland system; and
- 30 d. Out-of-kind. Mitigate in a different landscape position and/or HGM classification based on a
- 31 reference to a naturally occurring wetland system.
- 32 3. Types of Wetland Mitigation. The various types of wetland mitigation allowed are listed below in the
- 33 general order of preference.

34

1 **16.45.070—Wetland compensatory mitigation.**

2 A. General. As per the requirements of YMC 16.45.010(B), nonexempt development proposals that impact wetlands
3 or wetland buffers shall submit a mitigation plan to offset project impacts.

4 B. Ratios for Compensatory Mitigation. When the acreage required for compensatory mitigation is divided by the
5 acreage of impact, the result is a number known variously as a replacement, compensation, or mitigation ratio.
6 Compensatory mitigation ratios are used to help ensure that compensatory mitigation actions are adequate to offset
7 unavoidable wetland impacts by requiring a greater amount of mitigation area than the area of impact. Requiring
8 greater mitigation area helps compensate for the risk that a mitigation action will fail and for the time lag that occurs
9 between the wetland impact and achieving a fully functioning mitigation site. The ratios for compensatory
10 mitigation are based on the assumption that the category and hydrogeomorphic (HGM) class or subclass of the
11 affected wetland and the mitigation wetland are the same. The ratios may be adjusted either up or down if the
12 category of HGM class or subclass of the wetland proposed for compensation is different. Compensatory mitigation
13 should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland is defined
14 as a wetland whose design does not match the type of wetland that would be found in the geomorphic setting of the
15 proposed site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the
16 geomorphic setting).

17 C. Definitions of Types of Compensatory Mitigation.

18 The ratios presented are based on the type of compensatory mitigation proposed (e.g., restoration, creation, and
19 enhancement). In its Regulatory Guidance Letter 02-02, the U.S. Army Corps of Engineers provided definitions for
20 these types of compensatory mitigation. For consistency, this document uses the same definitions which are
21 provided below:

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

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

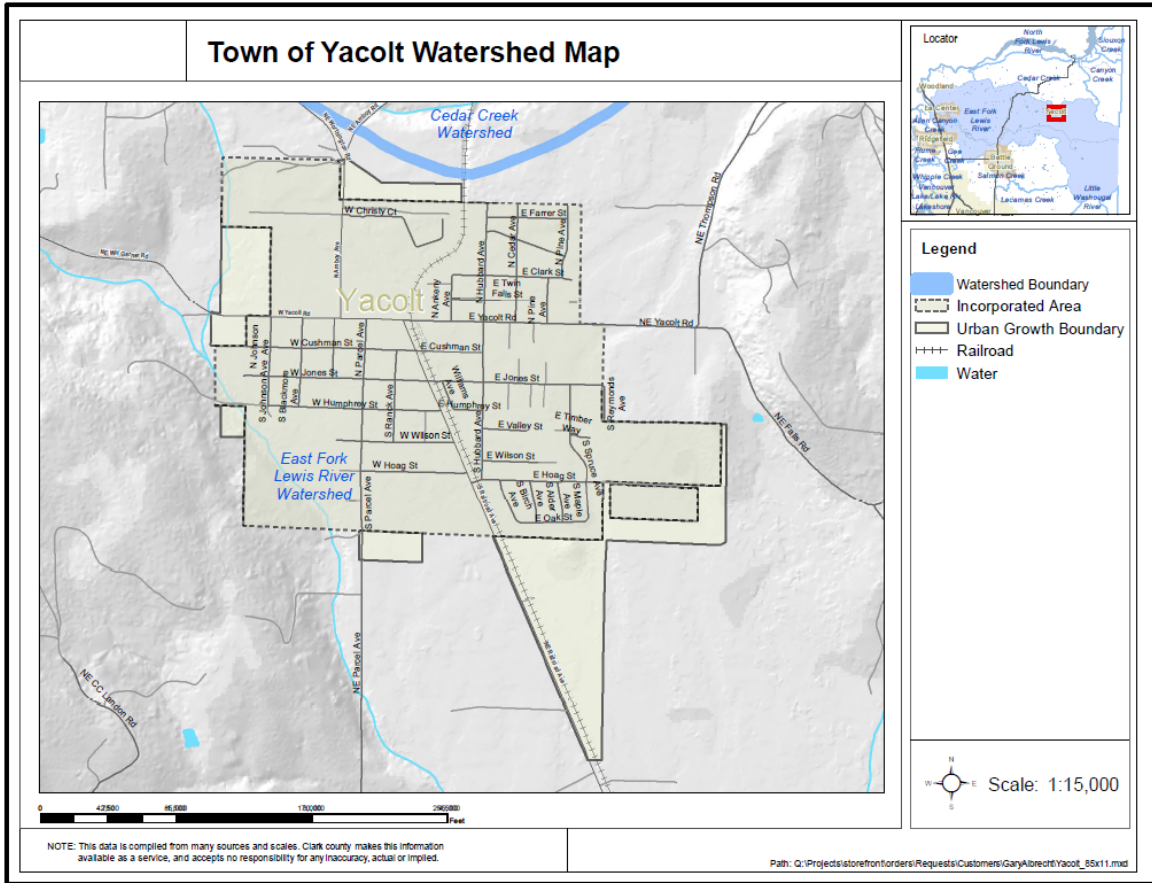
29 b. Rehabilitation. The manipulation of the physical, chemical, or biological characteristics of a site with
30 the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in
31 wetland function but does not result in a gain in wetland acres. Activities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

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

37 3. Enhancement. The manipulation of the physical, chemical, or biological characteristics of a wetland site to
38 heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the
39 vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement,
40 floodwater retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can
41 lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically
42 consist of planting vegetation, controlling nonnative or invasive species, modifying site elevations or the
43 proportion of open water to influence hydro-periods, or some combination of these activities.

44 Figure 16.45.040-1

45 Town of Yacolt Watershed Map



1

2

3 4. Protection/Maintenance (Preservation). Removing a threat to, or preventing the decline of, wetland
4 conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water
5 control structures or fences, or structural protection such as repairing a barrier island. This term also includes
6 activities commonly associated with the term preservation. Preservation does not result in a gain of wetland
7 acres, may result in a gain in functions, and will be used only in exceptional circumstances.

8 5. Wetland Mitigation Ratios

9 a. Standard Wetland Mitigation Ratios. The following mitigation ratios for each of the mitigation types
10 described in division 16.45.070 (C)(1) through (4) apply:

11 b. The responsible official has the authority to reduce wetland mitigation ratios under the following
12 circumstances:

13 (1) Documentation by a qualified wetland specialist demonstrates that the proposed mitigation actions
14 have a very high likelihood of success based on prior experience;

15 (2) Documentation by a qualified wetland specialist demonstrates that the proposed actions for
16 compensation will provide functions and values that are significantly greater than the wetland being
17 affected;

18 (3) The proposed actions for compensation are conducted in advance of the impact and are shown to be
19 successful;

(4) In wetlands where several HGM classifications are found within one (1) delineated wetland boundary, the areas of the wetlands within each HGM classification can be scored and rated separately and the mitigation ratios adjusted accordingly, if all the following apply:

(a) The wetland does not meet any of the criteria for wetlands with “Special Characteristics.” as defined in the rating system;

(b) The rating and score for the entire wetland is provided as well as the scores and ratings for each area with a different HGM classification;

(c) Impacts to the wetland are all within an area that has a different HGM classification from the one used to establish the initial category; and

(d) The proponents provide adequate hydrologic and geomorphic data to establish that the boundary between HGM classifications lies at least fifty (50) feet outside of the footprint of the impacts.

5. Wetland Buffers Required for Mitigation. Wetland mitigation shall be protected by the water quality function wetland buffers required in Table 16.45.040-1:

a. Reductions to the required buffers may be applied in accordance with divisions 16.45.040 (C) and (E) (5);

b. All wetland buffers shall be included within the mitigation site and subject to the conservation covenant required under division 16.45.030 (F) (3).

E. Wetland Mitigation Ratios.

Standard wetland Mitigation Ratios. The following mitigation ratios for each of the mitigation types described in 16.45.040 (C) apply:

MITIGATION RATIOS
Table 16.45.070-040-1 Standard Wetland Mitigation Ratios

Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only	Reestablishment or Creation (R/C) and Rehabilitation (RH)	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
All Category IV	1.5:1	3:1	1:1 R/C and 1:1 RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II Estuarine	Case-by-case	4:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case
Category II- Interdunal	2:1 Compensation has to be interdunal wetland	4:1 Compensation has to be interdunal wetland	1:1 R/C and 2:1 RH Compensation has to be interdunal wetland	Not considered an option	Not considered an option
All Other Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1

Category and Type of Wetland Impacts	Reestablishment or Creation	Rehabilitation Only	Reestablishment or Creation (R/C) and Rehabilitation (RH)	Reestablishment or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Forested	6:1	12:1	1:1 R/C and 4:1 RH	1:1 R/C and 20:1 E	24:1
Category I Based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not considered possible	6:1 Rehabilitation of a Natural Heritage site	R/C Not considered possible	R/C Not considered possible	Case-by-case
Category I Coastal Lagoon	Not considered possible	6:1 Rehabilitation of a coastal lagoon	R/C Not considered possible	R/C Not considered possible	Case-by-case
Category I Bog	Not considered possible	6:1 Rehabilitation of a bog	R/C Not considered possible	R/C Not considered possible	Case-by-case
Category I Estuarine	Case-by-case	6:1 Rehabilitation of an estuarine wetland	Case-by-case	Case-by-case	Case-by-case

1
2 [Ord. 562 § 1, 2017; Ord. 440 § 440.50.070, 2006.]

3 **16.45.080050 Wetland permit/Buffer Enhancement Plan.**

4 A. Preliminary Wetland/Buffer Enhancement Plan. The preliminary enhancement/mitigation plan consists of two
5 parts, baseline information for the site and a conceptual plan.

6 1. Baseline information shall include:

- 7 a. Wetland delineation report;
- 8 b. Description and maps of vegetative conditions at the site;
- 9 c. Description and maps of hydrological conditions at the site;
- 10 d. Description of soil conditions at the site based on a preliminary on-site analysis;
- 11 e. A topographic map of the site; and
- 12 f. Assessment of the functional uses of the existing wetland and buffer.

13 2. The contents of the conceptual plan shall include:

- 14 a. Goals objectives, and performance standards of the proposed mitigation project;
- 15 b. Description of wetland type to be created, rehabilitated, restored, or enhanced;
- 16 c. Map (This map should include the base buffer and the proposed buffer.) showing proposed wetland and
17 buffer;
- 18 d. Site plan;

- 1 e. Discussion and map of plant material to be planted and planting densities;
 - 2 f. Preliminary drainage plan identifying location of proposed drainage facilities including detention
3 structures and water quality features (e.g., swales);
 - 4 g. Discussion of water sources for the wetland;
 - 5 h. Project schedule;
 - 6 i. Discussion of how the completed project will be managed and monitored; and
 - 7 j. Discussion of contingency plans in case the project does not meet the goals initially set for the project.
- 8 B. Final Wetland/Buffer Enhancement Plan. The contents of the final enhancement/mitigation plan shall include:
- 9 1. Preliminary enhancement/mitigation plan and all conditions imposed on that plan.
 - 10 2. Performance Standards. Specific criteria shall be provided for evaluating whether or not the goals and
11 objectives of the enhancement/mitigation project are being met. Such criteria may include water quality
12 standards, survival rates of planted vegetation, species abundance and diversity targets, habitat diversity
13 indices, or other ecological, geological, or hydrological criteria.
 - 14 3. Detailed Construction Plans. Written specifications for the enhancement/mitigation project shall be provided.
15 The specifications shall include the proposed construction sequence, grading and excavation details, water and
16 nutrient requirements for planting, specification of substrate stockpiling techniques, and planting instructions,
17 as appropriate. These written specifications shall be accompanied by detailed site diagrams, sealed cross-
18 sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other
19 drawings appropriate to show construction techniques or anticipated final outcome.
 - 20 4. Monitoring Program. Description of a detailed program for monitoring the success of the
21 enhancement/mitigation project. A monitoring program shall include, but is not limited to:
 - 22 a. Establishing vegetation plots to track changes in plant species composition and density over time;
 - 23 b. Using photo stations to evaluate vegetation community response;
 - 24 c. Measuring base flow rates and stormwater runoff to model and evaluate water quality predictions, if
25 appropriate;
 - 26 d. Measuring sedimentation rates, if applicable; and
 - 27 e. Sampling fish and wildlife populations to determine habitat utilization, species abundance and diversity.
28 A protocol shall be included outlining how the monitoring data will be evaluated by agencies that are
29 tracking the progress of the project. A monitoring report shall be submitted annually, at a minimum,
30 documenting milestones, successes, problems, and contingency actions of the compensation project. The
31 compensation project shall be monitored for a period necessary to establish that performance standards
32 have been met, but not for a period less than five years. Ten years or more of monitoring are needed for
33 forested and scrub-shrub communities.
 - 34 5. Associated Plans and Other Permits.
 - 35 a. Final landscaping plan;
 - 36 b. An as-built plan for projects that require wetland creation or wetland construction;
 - 37 c. Final drainage plan; and
 - 38 d. Final erosion and sediment control plan.

1 6. Evidence of Financial and Scientific Proficiency. A description of how the enhancement/mitigation project
2 will be managed during construction and the scientific capability of the designer to successfully implement the
3 proposed project. In addition, a demonstration of the financial capability of the applicant to successfully
4 complete the project and ensure it functions properly over a five-year period. There should also be evidence
5 that required bonding can be obtained.

6 7. Contingency Plan. Identification of potential courses of action, and any corrective measures to be taken when
7 monitoring or evaluation indicates project performance standards are not being met.

8 C. Wetland Permit – Applications.

9 1. Applications for wetland permits shall be made to the town on forms furnished by the town. The town shall
10 process a wetland permit application as a request for land use approval pursuant to existing land use review
11 procedures.

12 2. Wetlands Permit Applications shall include:

13 a. Wetland delineations and required buffer width;

14 b. A site plan for the proposed activity overlaid on an aerial photograph at a scale no smaller than one inch
15 equals 400 feet showing the location, width, depth, and length of all existing and proposed structures,
16 roads, stormwater management facilities, sewage treatment, and installations within the wetland and its
17 buffer;

18 c. The exact sites and specifications for all regulated activities including the amounts and methods; and

19 d. A proposed preliminary enhancement/mitigation plan meeting the requirements of this chapter.

20 D. Wetland Permit – Approval.

21 1. The town shall issue final approval of the wetland permit authorizing commencement of the activity
22 permitted thereby upon:

23 a. Submittal and approval of a final enhancement/mitigation plan;

24 b. Installation and approval of the required field markings; and

25 c. The recording of a conservation covenant.

26 2. Conditions. An approval of a wetland permit shall incorporate the following conditions:

27 a. Posting of a cash performance bond or other security acceptable to the town in an amount and with
28 surety and conditions sufficient to fulfill the initial (first year) requirements of the required final plan,
29 mitigation plan, and enhancement plan and to secure compliance with other conditions and limitations set
30 forth in the permit.

31 b. The town shall release the performance bond upon determining that:

32 i. All initial (first year) activities, including any required compensatory mitigation, have been
33 completed in accordance with the terms and conditions of the permit and the requirements of this
34 chapter; and

35 ii. Upon forfeiture of a performance bond, the proceeds thereof shall be utilized either to correct
36 deficiencies which resulted in forfeiture or, if such correction is deemed by the town to be impractical
37 or ineffective, to enhance other wetlands in the same watershed.

38 c. Posting of a cash maintenance bond or other security acceptable to the town in an amount and with
39 surety and conditions sufficient to fulfill the requirements of the required final plan, mitigation plan, and

1 enhancement plan and to secure compliance with other conditions and limitations set forth in the permit
2 for the duration (beyond one year) of the required monitoring and maintenance time period.

3 d. The town shall release the maintenance bond at the end of the approved monitoring and maintenance
4 time period upon determining that:

5 i. All activities, including any required compensatory mitigation, have been completed in accordance
6 with the terms and conditions of the permit and the requirements of this chapter; and

7 ii. Upon forfeiture of a performance or maintenance bond, the proceeds thereof shall be utilized either
8 to correct deficiencies which resulted in forfeiture or, if such correction is deemed by the town to be
9 impractical or ineffective, to enhance other wetlands in the same watershed.

10 3. Duration. Wetland permit final approval shall be valid for a period of two years from the date of issuance
11 unless:

12 a. A longer period, not to exceed five years, is specified in the permit; or

13 b. The town grants an extension upon the written request of the original permit holder or successor in title
14 demonstrating to the satisfaction of the town:

15 i. That the original intent of the permit would not be altered or enlarged by the extension; and

16 ii. That relevant circumstances and standards have not changed substantially since the permit
17 application; and

18 iii. That the applicant has complied with the terms of the permit.

19 4. Revocation. In addition to other remedies provided for elsewhere, the town may suspend or revoke a permit
20 if the applicant or permittee has not complied with any of the conditions or limitations set forth in the permit,
21 has exceeded the scope of work set forth in the permit, or has failed to undertake the project in the manner set
22 forth in the permit.

23 E. Programmatic Permits for Routine Maintenance and Operations of Utilities and Public Facilities. The responsible
24 official may issue programmatic wetland permits for routine maintenance and operations of utilities and public
25 facilities within wetlands and wetland buffers, and for wetland enhancement programs. It is not the intent of the
26 programmatic permit process to deny or unreasonably restrict a public agency or utility's ability to provide services
27 to the public. Programmatic permits only authorize activities specifically identified in and limited to the permit
28 approval and conditions.

29 1. Application Submittal Requirements. Unless waived by the responsible official with specific findings in the
30 approval document in accordance with division 16.45.040 (E) (2), applications for programmatic wetland permits
31 shall include a programmatic permit plan that includes the following:

32 a. A discussion of the purpose and need for the permit;

33 b. A description of the scope of activities in wetlands and wetland buffers;

34 c. Identification of the geographical area to be covered by the permit;

35 d. The range of functions and values of wetlands potentially affected by the permit;

36 e. Specific measures and performance standards to be taken to avoid, minimize and mitigate impacts on
37 wetland functions and values including:

38 (1) Procedures for identification of wetlands and wetland buffers;

39 (2) Maintenance practices proposed to be used;

- 1 (3) Restoration measures;
- 2 (4) Mitigation measures and assurances;
- 3 (5) Annual reporting to the responsible official that documents compliance with permit conditions and
4 proposes any additional measures or adjustments to the approved programmatic permit plan;
- 5 (6) Reporting to the responsible official any specific wetland or wetland buffer degradations resulting from
6 maintenance activities when the degradation occurs or within a timely manner;
- 7 (7) Responding to any department requests for information about specific work or projects;
- 8 (8) Procedures for reporting and/or addressing activities outside the scope of the approved permit; and
- 9 (9) Training all employees, contractors and individuals under the supervision of the applicant who are
10 involved in permitted work.
- 11 2. Findings. A decision preliminarily approving or denying a programmatic wetland permit shall be supported by
12 findings of fact relating to the standards and requirements of this chapter.
- 13 3. Approval Conditions. Approval of a programmatic wetland permit shall incorporate at least the following as
14 conditions:
- 15 a. The approved programmatic permit plan;
- 16 b. Annual reporting requirements; and
- 17 c. A provision stating that duration of the permit.
- 18 4. Duration and Re-authorization.
- 19 a. The duration of a programmatic permit is for five (5) years, unless:
- 20 (1) An annual performance based re-authorization program is approved within the permit; or
- 21 (2) A shorter duration is supported by findings.
- 22 b. Requests for re-authorization of a programmatic permit must be received prior to the expiration of the
23 original permit.
- 24 (1) Re-authorization is reviewed and approved through the process described in division 16.45.040 (E) (1).
- 25 (2) Permit conditions and performance standards may be modified through the re-authorization process.
- 26 (3) The responsible official may temporarily extend the original permit if the review of the re-authorization
27 request extends beyond the expiration date.
- 28 E. F. Emergency Wetland Permit.
- 29 1. Authorization. Notwithstanding the provisions of this chapter, the mayor or his or her designee may issue a
30 temporary emergency wetland permit prospectively or, in the case of imminent threats to public health, safety,
31 or welfare, retroactively, where the anticipated threat or loss may occur before a permit can be issued or
32 modified under the procedures otherwise required by the Act and other applicable laws.
- 33 2. Prior to issuing an emergency wetland permit, the mayor or his or her designee shall issue a finding that
34 extraordinary circumstances exist and that the potential threat to public health, safety, or welfare from the
35 emergency situation is clearly significant and substantial.

- 1 3. Conditions. Any emergency permit granted shall incorporate, to the greatest extent practicable and feasible
2 but not inconsistent with the emergency situation, the standards and criteria required for nonemergency
3 activities under this division and shall:
- 4 a. Be limited in duration to the time required to complete the authorized emergency activity, not to exceed
5 90 days; and
- 6 b. Require, within this 90-day period, the restoration of any wetland altered as a result of the emergency
7 activity, except that if more than the 90 days from the issuance of the emergency permit is required to
8 complete restoration, the emergency permit may be extended to complete the restoration.
- 9 4. Notice. Notice of issuance of an emergency permit shall be published in a newspaper having general
10 circulation in the town of Yacolt not later than 10 days after issuance of such permit.
- 11 5. Termination. The emergency permit may be terminated at any time without process upon a determination by
12 the town that the action is no longer necessary to protect human health or the environment. [Ord. 562 § 1, 2017;
13 Ord. 440 § 440.50.080, 2006.]



Town of Yacolt

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Workshop Discussion Legislative and Administrative Priorities – Proposed Discussion Topics

Special Meeting of the Yacolt Town Council January 25, 2018

1. State Audit. (Not scheduled. Will be in the fall.)
2. 2018 Budget Review. (Beginning balances. Expected savings and cost-over-runs.)
3. Town Clerk Position. (Hiring Committee. Planning. Qualifications.)
4. Financial Accounts, Reporting, & Annual Report.
5. Building Department Issues:
 - a). Management Practices and Procedures.
 - b). Building Inspector. (Contracting for Services.)
 - c). Consideration of a Clark County Interlocal Agreement.
 - d). Issues Raised by Current Applications.
6. Other Administrative / Policy Projects:
 - a). Personnel Policy. (Revisions underway...)
 - b). Public Records Act Policy.
 - c). Minimum Procurement Policy.
 - d). Town Engineer. (Time to issue RFQ.)
 - e). Ordinance Publication Audit. (Status.)
7. Discuss Record-Keeping Practices.
8. Discuss Development of Helpful Checklists, Forms, and Calendaring Practices for Recurring Staff Procedures.
9. Other...

BANK ACCOUNTS

Town Of Yacolt
MCAG #: 0254

Time: 15:08:37 Date: 01/26/2018

Acct #	Description	Account Type	Current Balance
9	USBank 6765	Cash	673,799.34
12	Investco MMA	Cash	325,927.54
13	Voya Financial	Cash	115,332.54
			<hr/>
			1,115,059.42
			<hr/>
			1,115,059.42

2018 BUDGET TOTALS

Town Of Yacolt
MCAG #: 0254

Source Codes 000 To: 999

Time: 15:42:30 Date: 01/26/2018

Page: 1

002 Current Expense Reserve Fund

01/01/2018 To: 12/31/2018

REVENUES

308 80 00 02 Beginning Balance

115,332.54

308

115,332.54

Fund Revenues:

115,332.54

Excess/Deficit:

115,332.54

Memorandum

To: Town Council
Date: January 25, 2018
Re: Attorney communications regarding proposed revisions to Personnel Policy
For: Special Meeting – January 29, 2018

The following information was taken from e-mail communications between Town Attorney David W. Ridenour, and Association of Washington Cities contract attorney Beth McIntyre.

RE: Yacolt's Personnel Policy review.
From: Beth McIntyre <emcintyre@lldkb.com>
Fri 1/26/2018 1:33 PM

David:

I am attaching some draft revisions to the Town's personnel policies. The main changes are to the sick leave policy—to implement the requirements of the new sick leave law (RCW 49.46.200-210). I also added quite a bit to the military leave policy to distinguish between the paid military leave (which is 21 days, not 15 as stated in the policy) from the reinstatement rights following military service. I also modified the whistleblower policy to include a list of agencies to report improper governmental actions; as such lists are required to be included per RCW 42.41.030(3). Most of the other changes are pretty self-explanatory; but let me know if you have questions.

With respect to your questions about the council's ability to reduce or discontinue the amount that it pays for benefits for employees or their dependents; I do not see anything in the personnel policies that would prohibit the town council from changing its funding for benefits in the process of adopting a budget; though if that results in an employee losing benefits; that may be politically unpopular and it could result in valued employees leaving. I don't know enough about anyone's individual circumstance to predict how that kind of change would be received or if there are ways to soften the change through some other job perk. If it is a matter of simply lacking sufficient revenue to support the heavy payroll costs that the Town is shouldering; it may want to consider things like furloughs to reduce costs. With respect to dependent coverage; I am less concerned about defunding such coverage, particularly if there is a mechanism in place that would permit the employee to make the premium payment for dependent coverage with pre-tax dollars (through, for example, a cafeteria plan).

Let me know if you want to chat more about this.

Beth

RE: Yacolt's Personnel Policy review.
From: Beth McIntyre <emcintyre@lldkb.com>
Thu 1/25/2018 3:15 PM

Hello David,

I will provide you with a redlined copy of the personnel policies tomorrow along with a more thorough explanation in response to some of your questions; but I wanted to get back to you sooner rather than later on some of these issues. My comments are in red font following your questions, below.

Beth

From: David Ridenour [<mailto:davidwr@copper.net>]
Sent: Wednesday, January 24, 2018 1:13 PM
To: Beth McIntyre <emcintyre@lldkb.com>
Subject: RE: Yacolt's Personnel Policy review.

Thanks, Beth. The Council has a special meeting scheduled for next Monday evening to discuss their action priorities, the budget and a hiring plan for a new Town Clerk. I will share with the Council any information you are able to provide by Monday late afternoon.

David

David W. Ridenour
Attorney at Law
4001 Main Street, Suite 306
Vancouver, WA 98663

Tel: 360.906.1556
Fax: 360.906.1558

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From: Beth McIntyre [<mailto:emcintyre@lldkb.com>]
Sent: Wednesday, January 24, 2018 12:47 PM
To: David Ridenour <davidwr@copper.net>
Subject: RE: Yacolt's Personnel Policy review.

Hello David,

Your list of questions will be helpful in framing my review of your policies. I hope to get a response to you by no later than the end of the week—earlier if possible. If I can answer some of your questions with a cursory glance at the policies, I will do so. I can tell you now that the days taken for reasons of faith or conscience are not just extra holidays—they actually have to be tied into a faith-based reason such as attending temple on Rosh Hashanah.

I will be in touch soon.

Beth

From: David Ridenour [<mailto:davidwr@copper.net>]
Sent: Wednesday, January 24, 2018 12:37 PM
To: Beth McIntyre <emcintyre@lldkb.com>
Subject: Yacolt's Personnel Policy review.

Dear Beth,

Attached please find additional records relating to Yacolt's Personnel Policy, in case you find them useful during your review. I do not know the circumstances surrounding the original adoption of the Town's Personnel Policy. That was before me time. After I began doing some work for the Town, there was an incident involving the Town Clerk who was arrested and convicted of a substantial theft of funds from the local Little League. As a result, the Town desired to amend the Personnel Policy by reinforcing and expanding the Town's ability to discipline and terminate employees. In other words, they wanted to strengthen the at-will provisions.

During the process of those amendments, other subjects came up, but this was not a top-to-bottom re-creation of the Personnel Policy. I did use the opportunity to add some procedural steps, such as form transmittal letters from the Mayor to each employee, employee acknowledgement forms for their personnel files, etc. Though I periodically checked the Town's compliance with these steps, and mentioned them to Clerks at various times over the years, my sense is that they were not followed.

Fast-forward to today, and the Town is once again considering the improvement to language in its Personnel Policy because of challenging circumstances that have led to confusion over the Town's policies, especially with regard to benefits and wage expectations. In addition, there have been amendments to the State's statutes relating to employment. The Town would like to update its Personnel Policies and AWC agreed to assist with that review as you know.

Of course the Town and AWC are hoping that you will be able to spot glaring omissions in the Policy. In addition to that, I wanted to offer this list of more specific questions that have been raised over the last few weeks. To assist with parts of that review, I have also attached Yacolt's Budget Ordinance for 2018, and a copy of its 2018 budget breakdown.

1. Accrual of sick leave. (Sufficient under amended State law? Distinction between full and part-time employees, or other employee classes?) **The sick leave policy will benefit from a pretty substantial revision to incorporate many of the provisions of the new law. The accrual rates are fine (except that now all employees, including temporary and part-time get sick leave); but there are provisions regarding notice of use of leave; absences exceeding three days; etc. that should be clarified in a revised policy.**
2. Statutory notice to employees regarding sick leave, etc. (I think you mentioned the first notice is due by March 1, 2018. We can do this inhouse if you would point us in the right direction.) **L&I has a draft form you can use. This can be modified to implement the specifics of your policy:**
https://s3-us-west-1.amazonaws.com/ehq-production-us-california/95dae6ae0cd860a64ec140ed2017612a8e7dc8d6/documents/attachments/000/001/162/original/Employee_Paid_Sick_Leave_Notification_DRAFT_F700-191-000.pdf?1509122094
3. The additional Paid Personal Holiday under RCW 1.16.050(2). (Is this satisfactorily covered under the policy?) **Are you referring to policy 8.9? If so, I think your policy is fine though the RCW states that you should have, by resolution or ordinance, adopted guidelines for the selection of personal holidays**
4. Additional two paid holiday days per year for a "reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization", under RCW 1.16.050(2). **Unpaid, not paid**

a). As a practical matter, do these simply become two more paid vacation days' off for every employee, without regard to the integrity of the intended purpose?

b). If the answer to (a) is yes, may the Council consider reducing its extra paid personal days to the statutory minimum? **Yes, but note that the leave under this provision is unpaid**

c). How does this benefit apply or accrue to part-time employees? Exempt employees? **Part time employees are entitled to unpaid leave under this provision**

5. Do you have sample Resolution / Ordinance forms for regulations of these statutory extra paid holidays? Better yet, can you suggest draft language examples for the Policy that incorporates desired rules and regulations for dealing with these extra paid days' off? **I will come up with something**

6. The Town's health insurance benefits are receiving particular scrutiny. First, there has been some confusion over an employee's eligibility to participate in the Town's health insurance plan, versus an employee's "right" to expect the employer to pay most or all of the premiums for that coverage. We tried to improve that language during the 2010 revisions, but recent events make it clear that more work should be done.

a). Does the Council have the ability to define health benefits contributions each year during the budget process? **I believe so, your policies appear to give council that discretion. Will provide more detail tomorrow.**

b). May the Council make changes to that policy during each annual budget process as it deems necessary? (i.e., Changes to specific positions entitled to contributions, or the % of contribution, or the employee class entitled to contribution, (such as part-time employees versus full-time employees), or the elimination of all contributions for one or more of the coverage parts, (such as dental or vision coverage), or the elimination of contributions for dependents?)

c). May the Council generally reduce the Town's rate of contribution to premiums during the budget process? (For 2018, the Town reduced contributions from 100% to 90% for full-time employees. No contributions were budgeted for part-time employees, though this is not clear from the final adopted budget ordinance itself...)

d). May the Council decide not to offer premium contributions at all during the budget process?

e). Is it okay for the Council to have different policies for part-time versus full-time employees?

f). May a difference in the treatment of employees or employee classes (for premium contributions by the Town) be made as an ad hoc decision during the budget process, without specific reference in the Personnel Policy?

g). If the Council budgets for contributions to an employee's health insurance premiums through the Town's Plan, and then the employee quits or the employment relationship is otherwise terminated during that budgeted fiscal year, is the Council bound to offer the same premium contribution benefit to an employee hired for that same position? Or does the Council have the flexibility to advertise and hire for the position based on a different benefits package?

h). A slight variation on the above hypothetical: An employee declines during the budget process to participate in the Town's health insurance plan. The Town Council budgets accordingly based on assumptions for the number of employees who do plan to participate, and then budgets for the Town's partial or complete contribution to premiums. Later an employee who had been entitled to the premium contributions terminates the employment relationship. The employee who earlier declined to participate now steps up and decides that he or she wants to be covered by the Town's policy and expects the Town to reimburse some or all of the premium costs at the same rate as the employee who is now no longer employed by the Town.

(1). Is that existing employee somehow entitled to amounts in the budget that were freed up by another employee's termination?

(2). Does the Town's budget process set a dollar amount available to all employees who may decide at any time to participate if eligible for the insurance plan?

(3). If the new employee is entitled to the same contribution rate that other employees were given in the budget, and the new employee's situation with dependents or family means that the premium costs are higher than the terminated employee, is the Town forced to bear the extra cost, even though the extra cost was never contemplated in the budget? Is the extra cost instead imposed on that particular employee? Or is the extra cost spread among all participating employees ratably, (reducing the expected contribution level of employees who were specifically anticipated by the Council during the budget process)? (That would mean that all employees would be forced to pay a greater percentage of their own premiums than they were told during the budget process...)

(4). May a part time employee, for whom as a class no premium contributions were budgeted by the Town, make a claim to budgeted health premium contribution dollars that appear to be available because of the termination of an employee that had been scheduled specifically to receive that benefit?

(5). Following a budget process where the Town's health insurance contributions are limited to a specific figure based on assumptions regarding the identity and number of participating employees, and where the Town grants new contribution benefits to unscheduled employees, and where new employees are then hired in the positions for which a full contribution benefit was scheduled by the Town in its budget (and the new employee takes that benefit), then actual contribution dollars will significantly exceed what had been budgeted by the Council in its budget. Must the Town suffer the budget shortfall? If the Town's liability is limited to the budgeted contribution amount, which employees suffer with lower contribution rates? All ratably? The last one to be hired?

i). Another way of asking these questions: To what, if anything, are existing employees vested with respect to wages, salaries, and benefits (other than things like paid holidays or increased overtime pay rates)?

j). Put yet another way, does the Town Council have the flexibility and discretion to fix contributions in a budget cycle for specific employees, and then decline to offer contributions

during the budgeted fiscal year for new hires or employees who were not specifically scheduled for premium contributions in the budget?

k). Are there other limitations on the Council's discretion to make decisions regarding health insurance funding?

l). May the Council clarify its intent and policy with regard to any of these issues in an amended budget Ordinance or Resolution or other less formal statement of decision?

7. Can the Council reduce its premium contribution rate DURING the budgeted fiscal year? Assuming there is no employment contract, how much notice, if any, is required before a new, reduced benefits policy for a particular employee or group of employees may take effect. (Obviously benefits and salaries can be increased to take effect immediately if properly authorized, right?)

8. Obviously what the Council wants to know is whether the language regarding health insurance benefits can or should be changed to address these questions, and the many other similar questions that have come up for other municipalities on this subject. How would you describe the Council's maximum discretion on the subject, and does any language in the Policy need to be changed to give the Council the benefit of that maximum discretion? Does a Town Council have the discretion to tailor its plan for health benefits contributions to specific employees each year during its budget cycle, leaving it free to grant or decline later requests for coverage by existing employees, and to set the benefits package for new hires in any way it desires?

9. Salaries and wages: The Town's practice historically is to address wages and salaries as part of its annual budget process. That means that for specific employees in specific jobs, an hourly base rate or expected full-time monthly rate is established by the budget. The Policy refers to a "salary and wage schedule, which is approved annually by the Town Council". (Section 5.1) The Town has never approved a salary or wage schedule, to my knowledge. Instead, the Town addresses salaries and wages by making a specific 'schedule' of salaries and wages for its employees in its annual budget for the next fiscal year.

10. For all benefits and employee rights described in the Policy, are sufficient distinctions and regulations offered to explain the treatment of full-time employees versus part-time employees?

11. If the Town considered making one or more of its Department Heads exempt employees, what alternate language would be required in the Personnel Policy, if any? (Public Works Director or Town Clerk, for example...) **Town cannot just designate a particular position as exempt; the position must actually satisfy the requirements of being a bona fide professional, executive, or administrative position. Department Heads typically have the discretionary authority that they are OT exempt.**

a). Can they do so?

b). That would eliminate over-time and compensatory time, correct? **Yes, if they are truly exempt as a bona fide professional, executive, or administrative position using both a "salary" test and a "duties" test. I will provide greater detail tomorrow.**

c). Would this change also make the calculation of other leave time and benefits easier by fixing the accrual of benefits by week or month?

12. A question has been raised as to whether the descriptions of the Job Duties are adequate, though I am not aware of specific concerns.

13. Are there requirements for vacation leave, and does the Policy state the minimum leave required? **The policy does state an accrual for vacation leave. Are you asking if that is required? Generally no.**

14. A question has been raised about whether the Town COBRA policy requires that the Town pay for COBRA for 2 years. (I did not see any language like that in the Personnel Policy, so I am not sure exactly where this concern came from.) **I think she is referring to what is probably a typo stating at “employer’s option and expense” rather than “employee’s option and expense”** There is a typo in the COBRA section, (7.4 – 2nd Paragraph, line 2), where the phrase “at the employer’s option and expense” should read “at the employee’s option and expense”, but I don’t see that this mistake created any employee right to a new COBRA benefit from the Town.)

15. Should the Town make compensatory time accrue at 1.5 hours beginning only above a 170 hour work week. (?) **I am we are talking about 170/month which is considered a pretty standard full-time month.**

16. Should the Town state that new employees may not use comp time or vacation earned until they have reached the 6-month expiration of probation? They may use accumulated sick time earned, even during the probationary period. (I thought this was already covered, but perhaps not...) **New sick leave law allows use after 90 days.**

Military leave policy needs to be updated – law allows for 21 days, not 15; and should specify that leave is for “required military training, duty, and drills”. I will provide an amendment to this.

TOWN OF YACOLT

PERSONNEL POLICIES & PROCEDURES MANUAL

PREAMBLE

The provisions of this Personnel Policies & Procedures Manual are intended for informational purposes only and are neither a contract nor a promise of how the Town will address a particular situation. They are intended to be illustrative and the Town reserves the right to deviate from these policies in the event of an emergency, the need to preserve public confidence, or for the convenience of the employer when necessary to preserve the efficient administration of the Town. The Town also reserves the right to amend these policies at its sole discretion.

DATES OF ADOPTION AND REVISIONS

This Manual has an original adoption date at which time the policy took effect. It is sometimes necessary to revise or update the Manual. When using this Manual, please be sure that you are referring to the most current policy information. The date of adoption of this Manual is located in the lower left corner of each Page of the Manual. If you are not able to determine whether policy information is current, please contact the Town Clerk or the Mayor.

This version of the
Town of Yacolt - Personnel Policies & Procedures Manual
was adopted by the Yacolt Town Council in
October, 2010

TOWN OF YACOLT PERSONNEL POLICIES & PROCEDURES MANUAL

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CHAPTER 1 PURPOSE AND SCOPE

1.1 INTRODUCTION

These personnel policies serve as a general guide to the Town's current employment practices and procedures. As such, the Town hopes they will help you better understand how the Town operates and what is expected of you as an employee. These policies also describe what the Town provides you in terms of compensation, benefits, and other support.

This Manual should not be interpreted as forming an express or implied contract or promise that the policies discussed in it will be applied in all cases. The Town of Yacolt may add to the policies in the Manual, revoke, or modify them from time to time. The Town will try to keep the Manual current, but there may be times when policy will change before this material can be revised. The Town has sole discretion to unilaterally make changes to the policies described in this Manual without prior notice.

These personnel policies shall apply to all Town employees. They shall not apply to elected officials, the Mayor, or independent contractors.

You must read these policies. If you have any questions, please ask your supervisor or the Mayor.

1.2 INTENT OF POLICIES

These policies are not intended to be a contract, express or implied, or any type of promise or guarantee of specific treatment upon which you may rely, or as a guarantee of employment for any specific duration. The employer has sole discretion whether to apply handbook policies in a particular case. The Town can and will exercise flexibility and discretion with regard to the policies described in this manual, and to act apart from any procedures described herein. The Town has the right to completely disregard the contents of this policy.

UNLESS SPECIFIC RIGHTS ARE GRANTED TO YOU IN EMPLOYMENT CONTRACTS, CIVIL SERVICE RULES, OR ELSEWHERE, ALL EMPLOYEES OF THE TOWN ARE CONSIDERED AT-WILL EMPLOYEES AND EITHER PARTY MAY TERMINATE THE RELATIONSHIP ANY TIME, WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE.

No supervisor, manager, or representative of the Town other than the Mayor, in writing and with the Town Council's approval, has the authority to enter into any agreement with you for employment for any specific period or to make any written or verbal commitments contrary to the foregoing.

1.3 SCOPE OF POLICIES

These personnel policies apply to all Town employees. In cases where these policies conflict with any Town ordinance, Civil Service rules and regulations, the provisions of a collective bargaining agreement, or state or federal law, the terms of that law or agreement prevail. In all other cases, these policies apply.

1.4 CHANGING THE POLICIES

As the need arises, the Mayor may modify these policies, except that the Town Council, by ordinance, shall enact any changes in compensation or benefit levels. The Mayor may deviate from these policies in individual situations, particularly in an emergency, in order to achieve the primary mission of serving the Town's citizens. Employees may request specific changes to these policies by submitting suggestions to the Mayor or Town Council.

1.5 EMPLOYMENT AGREEMENTS

The Town of Yacolt may execute written employment agreements with certain employees. The Mayor, with Town Council approval, is the only representative authorized to enter into a written employment agreement on behalf of the Town with any employee. Employees are encouraged to review carefully any employment agreement and to consult with legal counsel if necessary to understand the terms of the agreement.

Written employment agreements normally will set out the significant terms and conditions of an individual's employment. These terms and conditions may generally include:

- (a) The length of time that the agreement will last and how, if at all, it can be renewed;
- (b) The job title, duties, and description, reserving to the Town of Yacolt the right to change the employee's duties as the Town of Yacolt's interests require;
- (c) The frequency of salary adjustments and reviews;
- (d) Any other provisions relating to vacation, sick leave, retirement, Social Security contributions, holidays, other benefits, working conditions, and insurance benefits; and,
- (e) Provisions for the termination of employment.

1.6 DEFINITIONS

Immediate Family: Includes the employee's spouse, domestic partner, child, parent, brother or sister, mother or father-in-law, son or daughter-in-law, grandparent, grandchild, or other relative who lives in the employee's home.

Regular Full-Time Employee: An employee who has successfully completed a trial period as defined in these policies and who regularly works a minimum of forty (40) hours a week.

Regular Part-Time Employee: An employee who has successfully completed a trial period as defined in these policies and who regularly works less than forty (40) but at least twenty (20) hours a week.

Temporary Employees: Employees who hold jobs of limited duration due to special projects, abnormal work loads, seasonal needs (Seasonal Employees), or emergencies. Temporary employees are not eligible for Town benefits.

Trial Employees: Employees who have not yet completed their trial period in a regular position and who have not been certified to regular employment status. Unless otherwise specified, when regular employees are referred to in these policies, they shall include trial employees.

CHAPTER 2 GENERAL POLICIES AND PRACTICES

2.1 EQUAL EMPLOYMENT OPPORTUNITY POLICY

The Town is an equal employment opportunity employer. The Town employs, retains, promotes, terminates and otherwise treats all employees and job applicants on the basis of job-related qualifications and competence. These policies and all employment practices shall be applied without regard to any individual's sex, race, color, religion, national origin, pregnancy, age, marital status, sexual orientation, political ideology, or disability.

2.2 DISABILITY AND MEDICAL CONDITION DISCRIMINATION PROHIBITED

The Town will not discriminate against qualified applicants or employees with a sensory, physical, or mental disability, or medical condition or diagnosis, unless the disability or condition cannot be reasonably accommodated without undue hardship, prevents proper performance of an essential element of the job, or poses a risk to themselves or co-workers.

2.3 ANTI-HARASSMENT POLICY

It is the Town's policy to foster and maintain a work environment that is free from discrimination and intimidation. Toward this end, the Town will not tolerate harassment of any kind that is made by employees toward co-workers or members of the public. Employees are expected to show respect for each other and the public at all times, despite individual differences.

Harassment is defined as unwelcome verbal or physical conduct directed toward or relating to a person on the basis of the person's race, creed, color, national origin, age, religion, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability where the conduct is sufficiently pervasive and severe as to alter the terms or conditions of employment. Such conduct may take many forms including unwelcome slurs, comments, jokes, touching, innuendo, gestures, displays or transmissions of materials, and other similar conduct. Employees who engage in harassment will be subject to discipline, up to and including termination of employment, that demeans or shows hostility or aversion toward another employee or members of the public. Examples of prohibited conduct include slurs or demeaning comments to employees or members of the public relating to race, ethnic background, gender, religion, sexual orientation, age or disability.

2.4 SEXUAL HARASSMENT PROHIBITED

Sexual harassment is a form of sex discrimination and is illegal. Sexual harassment is also inappropriate and offensive and will not be tolerated by the Town.

Sexual harassment is behavior of a sexual nature that is unwelcome. Examples of sexual harassment include verbal behavior such as unwanted sexual comments, suggestions, jokes, or

pressure for sexual favors; non-verbal behavior such as suggestive looks and leering; and physical behavior such as pats, squeezes, or repeatedly brushing against someone's body. Other conduct also may constitute sexual harassment depending upon given facts and circumstances.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct constitute sexual harassment when:

- It is part of a manager's or supervisor's decision to hire or fire;
- It is used to make other employment decisions like pay, promotion, or job assignments;
- It creates an intimidating, hostile, or offensive work environment.

Employees engaging in improper harassment are subject to discipline, including termination.

2.5 DISCRIMINATION COMPLAINT PROCEDURE

Each employee is responsible for creating an atmosphere free of discrimination and harassment, sexual or otherwise. Further, employees are responsible for respecting the rights of their co-workers and others, including the citizens they serve. The following procedure outlines the steps to follow if you believe you have experienced harassment or discrimination on the job.

Should you believe that you have been harassed or are the victim of discrimination, you should try, if possible, to identify the offensive behavior to the harasser and request that it stop. In the event such informal direct communication is either ineffective or impossible, you should discuss your concern immediately with the Mayor or a supervisor. No employee will suffer retaliation for reporting such concern. To the extent possible, complaints will be handled confidentially.

If an investigation shows the accused employee did engage in improper harassment or discrimination, appropriate action will be taken, as in the case of any other serious employee misconduct. Such actions may include warnings, verbal and/or written reprimands, a letter to the employee's file or, an employee transfer, demotion, suspension or termination. Employees may additionally be required to participate in appropriate training.

2.6 EMPLOYEE PERSONNEL RECORDS

A personnel file for each employee is kept in the Town Clerk's office. An employee's personnel file contains the employee's name, title and/or position held, job description, department to which the employee is assigned, salary, changes in employment status, training received, performance evaluations, personnel actions affecting the employee, including discipline, and other pertinent information. Medical information about employees is contained in a separate confidential file.

Employees have the right to review their files. An employee may request removal of irrelevant or erroneous information in his/her personnel file. If the Town denies an employee's request to remove the information, the employee may file a written rebuttal statement to be placed in his/her file.

Personnel files are kept confidential to the maximum extent permitted by law. Except for routine

verifications of employment, no information from an employee's personnel file will be released to the public, including the press, without a written request for specific information, unless such disclosure is required by the Public Records Act or other legal mandate.

2.7 EMPLOYMENT REFERENCES

Only the Mayor will provide employment references on current or former Town employees. References will be limited to verification of employment and salary unless the employee has completed a written waiver and release.

CHAPTER 3 RECRUITING AND HIRING

3.1 RECRUITING

Recruiting practices are conducted solely on the basis of ability, merit, qualifications, and competence, without regard to race, color, religion, national origin, sex, marital status, pregnancy, physical handicap, disability, age, medical condition or diagnosis, sexual orientation, or political ideology.

Each applicant shall complete and sign an application form prior to being considered for any position. Resumes may supplement, but not replace, the Town's official application.

Any applicant supplying false or misleading information is subject to immediate termination, if hired.

3.2 HIRING

When a position becomes vacant and prior to any posting or advertisement of the vacancy, the Mayor shall review the position, its job description, and the need for such a position. The position will be posted and/or advertised only after the Mayor has approved the request.

The Town may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the Town. The Town may contract with any agency or individual to prepare and/or administer examinations. The Town may also conduct certain background procedures to determine if the applicant is qualified for the position as required by law.

Residency within the Town shall not be a condition of employment; provided, however, that an employee's selection of residence shall not interfere with daily performance of his/her duties and responsibilities.

Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least 18 years old and will be required to present a valid Washington State driver's license with any necessary endorsements. Driving records of applicants may be checked. Applicants with poor driving records, as determined by the Town, may be disqualified for employment with the Town in positions requiring driving.

After an offer of employment has been made and prior to commencement of employment, the Town may require persons selected for employment to successfully pass a medical examination, which may include testing for alcohol and controlled substances. The purpose of the examination is to determine if the individual is physically able to perform the job and to ensure his/her physical condition will not endanger the health, safety, or well being of other employees or the public. The offer of employment may be conditioned on the results of the examination.

A candidate may be disqualified from consideration if: (1) found physically unable to perform the duties of the position (and the individual's condition cannot reasonably be accommodated in the workplace without undue hardship); (2) the candidate refuses to submit to a medical examination or complete medical history forms; or (3) if the exam reveals use of alcohol and or controlled substances.

3.3 TEMPORARY EMPLOYEES

The Town may use temporary employees to temporarily replace regular employees who are on vacation or other leave, to meet peak work load needs, or to temporarily fill a vacancy until a regular employee is hired. Temporary employees may be hired without competitive recruitment or examination, although all hiring processes must comply with state and federal laws.

Compensation/Benefits: Temporary employees are eligible for overtime pay as required by law. Temporary employees normally do not receive retirement, vacation, ~~sick leave~~, health insurance, holidays, or any other benefits during their employment. All employees, including temporary employees, will earn sick leave, in accordance with the Town's sick leave policy, Section 8.2.

Temporary employees pay contributions to the Social Security system, as does the town on their behalf. Temporary employees will normally not be enrolled in the state PERS retirement system, although there are a few exceptions depending on PERS eligibility criteria.

3.4 TRIAL PERIOD

Upon hire or appointment, all employees enter a trial period that is considered an integral part of the selection and evaluation process. The trial period is designed to give the employee time to learn the job and to give the supervisor time to evaluate whether the match between the employee and the job is appropriate.

The normal trial period is six months from the employee's date of hire, rehire, or promotion. The Mayor may authorize an extension to extend the trial period for up to an additional six (6) months. An extension may be granted due to circumstances such as an extended illness or a continued need to evaluate an employee's performance.

Once the trial period is successfully completed, the employee may be certified to regular employment status. Satisfactory completion of the trial period does not create an employment contract or guarantee employment with the Town for a specified duration. The terms of Chapter 1.2 of this Personnel Policy & Procedures Manual remain in full force and effect, regardless of whether an employee has completed a trial period of employment with the Town. Nothing in this Chapter 3 is designed or intended to change the "at will" nature of the employment relationship.

Use of Sick Leave/Vacation During Trial Period: Trial employees may use their accrued sick leave from the beginning of their employment, but may not use earned vacation or personal Floating Holiday time until they have successfully completed their trial period.

3.5 EMPLOYMENT OF RELATIVES (NEPOTISM)

The Immediate Family of current Town employees or elected officials will not be employed by the Town where:

- (1) One of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other;
- (2) One party would handle confidential material which may create the appearance of improper or inappropriate access to that material by the other;
- (3) One party would be responsible for auditing the work of the other;
- (4) The employment would create either a direct or indirect supervisor/subordinate relationship with the family member; or,
- (5) Other circumstances exist that might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the Town.

Change in Circumstances: If two employees marry, become Immediate Family members or begin living together as domestic partners, and in the Town's judgment, the potential problems noted above exist or reasonably could exist, only one of the employees will be permitted to stay with the Town, unless reasonable accommodations, as determined by the Mayor, can be made to eliminate the potential problem. The decision as to which employee will remain with the Town must be made by the two employees within thirty (30) calendar days of the date they marry, become Immediate Family members, or begin sharing living quarters with each other. If no decision is made during this time, the Town reserves the right to terminate either employee.

Temporary Employees: This policy may be suspended with respect to Temporary Employees hired during times of abnormal workloads or emergency situations that justify a relaxation of the policy in the judgment of the Mayor or Town Council

3.6 PROMOTIONS

The Town encourages promotion from within the organization whenever possible. All openings will be posted so that employees may become aware of opportunities and apply for positions in which they are interested and qualified.

Before advertising a position to the general public, the Mayor may choose to circulate a promotional opportunity within the Town.

The Town reserves the right to seek qualified applicants outside of the organization at its discretion.

New Trial Period: After promotion to a new position, a new trial period of six (6) months must

be completed, unless waived or reduced by the Mayor. In the case of unsatisfactory performance in a promotional situation, the employee may be considered for transfer back to the previous position held by the employee.

CHAPTER 4 HOURS AND ATTENDANCE

4.1 WORKING HOURS

The Town's standard workweek is Monday through Friday from 8:00 a.m. to 5:00 p.m. with a one-hour unpaid lunch period. Due to the nature of the Town's operations, longer hours may be necessary in some instances.

A normal working schedule for regular, full-time employees consists of forty (40) hours each workweek. Different work schedules, such as in the case of police and fire employees, may be established by the Town to meet job assignments and provide necessary Town services. Each employee's supervisor will advise the employee regarding his/her specific working hours.

Part-time and temporary employees will work hours as specified by their supervisor.

4.2 HOURS OF WORK AND OVERTIME

All Town positions are designated as either "exempt" or "non-exempt" according to the Fair Labor Standards Act ("FLSA") and Washington Minimum Wage Act regulations. You will be informed of your status by the Town.

For most Town employees, the established work period is forty (40) hours within a seven (7) day workweek. All personnel are responsible for accurately reporting all hours worked on forms supplied by the Town. Employees failing to accurately record time worked are subject to discipline.

Non-exempt employees are entitled to additional compensation, either in cash or compensatory time off, when they work more than the maximum number of hours during a work period. All overtime must be authorized in advance by the employee's supervisor. Overtime pay is calculated at one and one-half times the employee's regular rate of pay for all time worked in excess of forty hours during ~~beyond~~ the established work period. When computing overtime, time paid for but not worked (e.g., holidays, sick leave and vacation time), is not counted as hours worked.

CHAPTER 5 COMPENSATION

5.1 SALARY CLASSIFICATION AND GRADES

Each job title within the Town is classified into one of the Town's classifications for salary purposes. Each classification is designated a particular salary or salary range shown on the Town's salary and wage schedule, which is approved annually by the Town Council.

5.2 EMPLOYEE PAY RATES

Employees shall be paid within the limits of the wage range to which their positions are assigned. Usually, new employees will start their employment at the minimum wage rate for their classification. However, a new employee may be employed at a higher rate than the minimum when the employee's experience, training, or proven capability warrant, or when prevailing market conditions require a starting rate higher than the minimum.

Pay increases are contingent on satisfactory performance. If an employee's performance is consistently unsatisfactory, the Mayor may defer a scheduled pay increase for a stipulated period of time or until the employee's job performance is satisfactory.

The Mayor may propose and the Town Council may grant an across-the-board pay adjustment (cost-of-living increase) from time to time, raising the salaries of all positions by a specified amount within a defined group of classifications. Such adjustments, if any, will not change an employee's pay anniversary date.

An employee promoted to a position in a higher classification and salary range shall receive the next highest available pay step in the new range.

5.3 PAY DAYS

Town employees are paid monthly on the last day of each month. If a regularly scheduled payday falls on Saturday or Sunday, paychecks will be distributed on Friday; if it falls on a holiday, paychecks will be distributed on the previous regularly scheduled working day.

5.4 DEDUCTIONS

Some regular deductions from the employee's earnings are required by law; other deductions are specifically authorized by the employee. The Town will withhold from the employee's paycheck those deductions required by law and any voluntary deductions authorized by the employee, by applicable union contract, or by statute.

5.5 TRAVEL AWAY FROM THE TOWN

All travel away from the Town must be approved in advance by the Mayor. If private automobiles are used, employees will be reimbursed at a rate consistent with the Town's mileage reimbursement policy.

5.6 COMPENSATORY TIME

Public employers are not required to, but may allow compensatory time off in lieu of overtime pay for hourly employees. Non-exempt employees may request compensatory time off in lieu of overtime payment. Compensatory time off must be requested by the employee and authorized by the appropriate supervisor. Compensatory time will be given at the rate of one and one half times the employee's hours worked in excess of 40 hours in a work week. Employees must use compensatory time within one year after the month in which it is earned. If not taken in that time frame, compensatory time will be converted back to hourly pay at a ratio of 1 hour of compensation time to 1 hour of compensation, (since the compensation time was increased when granted to 1.5 hours for each overtime hour worked). Compensatory time is not available for exempt employees.

5.7 TRAVEL EXPENSE REIMBURSEMENT

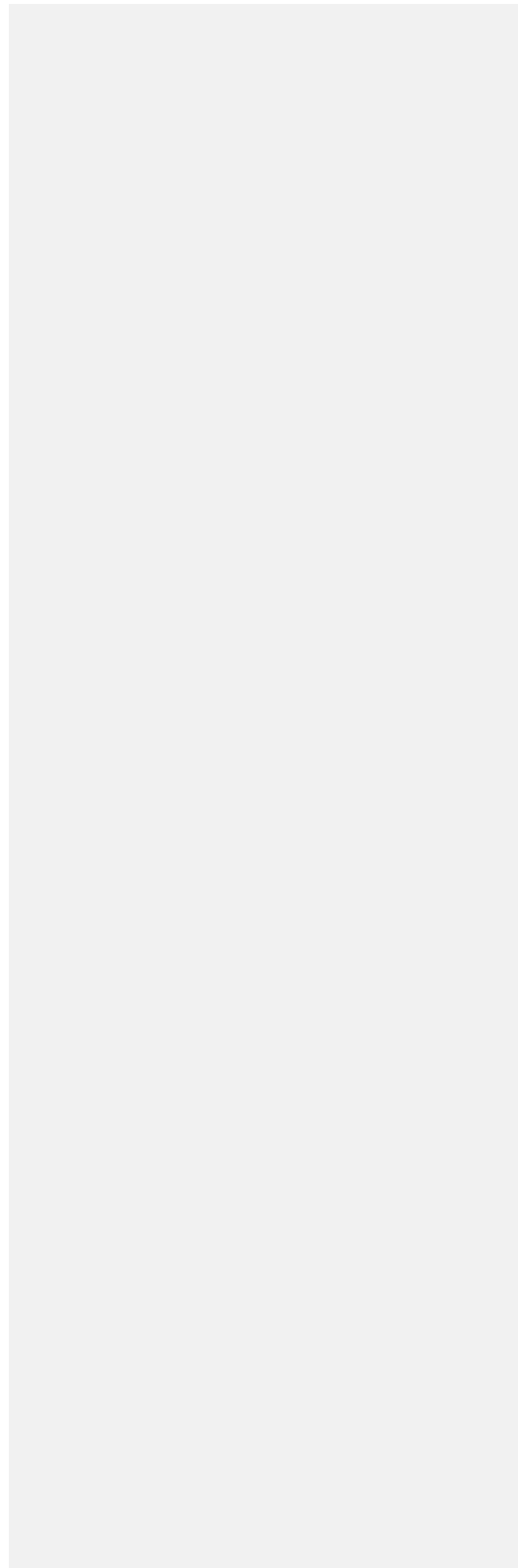
Town employees will be reimbursed for reasonable and customary expenses actually incurred in connection with the business of the Town, including food, lodging, and travel expenses while away, but excluding any expenses for alcoholic beverages. Reasonable tips will be reimbursed. For tips that are paid based on the price of a service (e.g., restaurant meals, taxi service), reimbursement will not exceed 15% of the price. Tips, not to exceed 15%, for meals, taxis, or baggage handling are reimbursable. [NOTE: THIS IS A MINOR POINT, BUT AS WRITTEN, THE REIMBURSEMENT FOR TIPS FOR BAGGAGE HANDLERS IS LIMITED TO 15% OF THE PRICE, WHICH DOESN'T REALLY MAKE SENSE.]

Requests for reimbursement, including receipts, shall be submitted on an expense report form signed by the employee and the supervisor.

5.8 COMPENSATION UPON TERMINATION

When an employee's employment with the Town is terminated, (whether the employee is terminated, resigns or retires), the employee will receive the following compensation on the next regularly scheduled payday:

- (1) Regular wages for all hours worked up to the time of termination which have not already been paid.
- (2) Any overtime and holiday pay due.
- (3) A lump sum payment of any accrued but unused vacation and compensatory time.



CHAPTER 6 PERFORMANCE EVALUATIONS AND TRAINING

6.1 PERFORMANCE EVALUATIONS

To achieve the Town's goal to train, promote, and retain the best-qualified employee for every job, the Town conducts periodic performance evaluations for all positions. The Mayor is responsible for developing and maintaining the Town's performance evaluation program. Employees are to be evaluated by their supervisors prior to completion of their trial period and usually once every 12 months thereafter.

The evaluation is part of an employee's personnel record and may be a factor in determining the employee's conversion to regular status, whether the employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated.

6.2 TRAINING POLICY

The Town seeks, within the limits of available resources, to offer training to increase an employee's skill, knowledge and abilities directly related to Town employment, to obtain or maintain required licenses and certifications, and to develop staff resources. Opportunities may include but are not limited to: on-the-job training, in-house workshops, and seminars sponsored by other agencies or organizations.

CHAPTER 7 BENEFITS

7.1 RETIREMENT BENEFITS

The Town makes contributions on behalf of all eligible employees to the Social Security system in addition to those contributions made by the employee through FICA payroll deductions.

All regular full-time and eligible part-time non-uniformed employees are covered under the Public Employees Retirement System (PERS). Eligibility, benefit levels and contribution rates are determined by the State of Washington.

Employees intending to retire should notify their supervisor of their intent to retire at least 3 months prior to the date of retirement.

7.2 DISABILITY BENEFITS (WORKERS' COMPENSATION)

All employees, other than police and fire employees in the LEOFF I retirement system, are covered by the State Workers' Compensation Program. This insurance covers employees in case of on-the-job injuries or job-related illnesses. For qualifying cases, State Industrial Insurance will pay the employee for workdays lost and medical costs due to job-related injuries or illnesses. All job-related accidents should be reported immediately to the supervisor.

When an employee is absent for one or more days due to an on-the-job accident, he/she is required to file a claim for Workers' Compensation. If the employee files a claim, the Town will continue to pay (by use of the employee's unused sick leave) the employee's regular salary pending receipt of Workers' Compensation benefits.

Coordination of Benefits: When the employee receives Workers' Compensation benefits, he/she is required to repay to the Town the amount covered by Workers' Compensation and previously advanced by the Town. This policy is to ensure that the employee will receive prompt and regular payment during periods of injury or disability so long as accrued sick leave is available, while ensuring that no employee receives more than he/she would have received had the injury not occurred. Upon the repayment of funds advanced, the appropriate amount of sick leave shall be restored to the employee's account.

The Town may require an examination at its expense, performed by a physician of its choice, to determine when the employee can return to work and if he/she will be capable of performing the duties of the position.

7.3 HEALTH INSURANCE BENEFITS

Regular full-time employees, regular part-time employees, and their dependents are eligible to participate in the Town's various insurance programs on the first day of the month following employment. The programs and criteria for eligibility will be explained upon hire. The Town

may contribute toward the cost of premiums in amounts authorized by the Town Council, which may or may not include any contribution for dependents' premiums. The remainder of the premiums, if any, shall be paid by the employee through payroll deduction. The Town reserves the right to make changes in the carriers and provisions of these programs when deemed necessary or advisable, with prior notice to affected employees.

Temporary employees are not eligible for insurance coverage.

7.4 CONTINUATION OF INSURANCE COVERAGE

Workers' Compensation Leave: An employee receiving Workers' Compensation benefits continues to accrue vacation leave and sick leave for up to six (6) months. The Town also continues to pay for the employer's portion of health insurance premiums, provided that the employee continues to pay their share of premiums, if any. After six (6) months, the employee's benefits shall cease unless the Mayor makes an exception based on criteria stated in Section 1.4 of these policies. The employee may continue health care benefits by self-paying insurance premiums for the remainder of the time he/she receives Workers' Compensation benefits. The employee may be entitled to an increase in temporary total disability payments (also called "time loss") from the Department of Labor & Industries to help offset the cost of the health insurance premiums.

COBRA Rights: Upon an employee's termination from Town employment or upon an unpaid leave of absence, at the employer's option and expense, the employee may be eligible to continue Town health insurance benefits to the extent provided under the federal COBRA regulations. An administrative handling fee over and above the cost of the insurance premium may be charged the employee of his/her dependents who elect to exercise their COBRA continuation rights.

Termination, Retirement, Leave of Absence: For eligible employees who terminate, retire, or are on an approved leave of absence, the Town will pay the premium for the month the employee is leaving, provided the employee is on paid status for the first ten (10) days of the month.

7.5 UNEMPLOYMENT COMPENSATION

Town employees may qualify for State Unemployment Compensation after termination from Town employment depending on the reason for termination and if certain qualifications are met.

CHAPTER 8 LEAVES

8.1 VACATION LEAVE

Each regular full-time employee is entitled to vacation leave as follows:

<u>Years of Employment</u>	<u>Vacation Hours Earned</u>
0-4 years	6.67 hours/month
5-9 years	10 hours/month
10+ years	13.33 hours/month

All new employees must satisfactorily complete their trial period to be entitled to use accrued vacation leave. Regular part-time employees will receive vacation on a pro-rata basis. Temporary employees are not eligible for any vacation benefits. Employees do not accrue vacation benefits during a leave without pay.

The Mayor is responsible for scheduling employees' vacations. Leave requests shall be submitted at least two weeks prior to taking vacation leave.

The maximum number of vacation hours that may be carried over from one year to the next is 80 hours. Once a year, on the anniversary of the employee's start date, accrued vacation hours in excess of 80 hours will be cashed out at that employee's pay rate for the immediately preceding pay period, and paid with the employee's next regular pay check. Employees will be paid for unused vacation time upon termination of employment.

8.2 SICK LEAVE

All full-time regular employees, except LEOFF I employees, accrue sick leave benefits at the rate of eight (8) hours for each calendar month of continuous employment. Regular part-time employees may accrue sick leave benefits on a pro-rata basis.

All other employees, including temporary employees, accrue sick leave at the rate of one hour for every forty hours worked.

Employees accrue but may not use sick leave until their 90th day of employment with the Town during their trial periods.

~~Temporary employees do not earn sick leave benefits.~~ Employees do not accrue sick leave benefits during a leave without pay.

Allowable Uses of Sick Leave: Sick leave covers those situations in which an employee is

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absent from work due to:

- An employee's mental or physical illness, injury or health condition;
- Preventive care such as a medical, dental or optical appointments and/or treatment;
- Care of a family member with an illness, injury, health condition and/or preventive care such as medical/dental/optical appointment;
- Closure of the employee's place of business or child's school/place of care by order of a public official for any health-related reasons;
- Use of a prescription drug which impairs job performance or safety;
- Additional leave beyond bereavement for death in the employee's immediate family, to be authorized by the Mayor;
- Exposure to a contagious disease where on-the-job presence of the employee would jeopardize the health of others;
- If the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, as described in more detail below.

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For purposes of this policy, a "family member" includes an employee's child (including stepchild); parent (including stepparent and spouse's parent); spouse; registered domestic partner; grandparent; grandchild; and sibling.

Authorized use of paid sick leave for domestic violence, sexual assault, or stalking includes:

- Seeking legal or law enforcement assistance or remedies to ensure the health and safety of employee's and their family members including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, or stalking.
- Seeking treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, or stalking.
- Attending health care treatment for a victim who is the employee's family member.
- Obtaining, or assisting the employee's family member(s) in obtaining, services from: a domestic violence shelter; a rape crisis center; or a social services program for relief from domestic violence, sexual assault, or stalking.
- To obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, or stalking in which the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking.
- Participating, for the employee or for the employee's family member(s), in: safety planning; or temporary or permanent relocation; or other actions to increase the safety from future incidents of domestic violence, sexual assault, or stalking.

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REASONABLE NOTICE FOR USE OF PAID SICK LEAVE:

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Employees must provide reasonable advance notice of an absence from work for the use of paid sick leave to care for themselves or a family member. Such notice must be provided to the Mayor and, if applicable, his or her immediate supervisor. Any information provided will be kept confidential.

Reasonable Notice for Foreseeable Use of Paid Sick Leave:

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If an employee’s absence is foreseeable, the employee must provide notice at least ten (10) days, or as early as possible, before the first day paid sick leave is used.

If possible, notification should include the expected duration of the absence.

Reasonable Notice for Unforeseeable Use of Paid Sick Leave:

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If an employee’s absence is unforeseeable, the employee must contact the Mayor and his/her supervisor as soon as possible. If the need for paid sick leave is unforeseeable, and arises before the required start of the employee’s shift, notice should be provided no later than one (1) hour before the employee’s required start time.

In the event it is not possible to provide notice of an unforeseeable absence, a person, on the employee’s behalf, may provide such notice.

If possible, the notification should include the expected duration of the absence.

- ~~(1) — Employee’s own health condition (illness, injury, physical or mental disability, including disability due to pregnancy or childbirth);~~
- ~~(2) — The need to care for the employee’s dependent children under the age of 18 who are ill.~~
- ~~(3) — Medical or dental appointments for the employee or dependent child, provided that the employee must make a reasonable effort to schedule such appointments at times which have the least interference with the work day;~~
- ~~(4) — Exposure to a contagious disease where on the job presence of the employee would jeopardize the health of others;~~
- ~~(5) — Use of a prescription drug which impairs job performance or safety;~~
- ~~(6) — Additional leave beyond bereavement for a death in the immediate family, to be authorized by the Mayor.~~

VERIFICATION REQUIREMENTS:

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If an employee is seeking to use or has used paid sick leave for more than three (3) consecutive days during which the employee is/was required to work, the employee may be required to provide verification that establishes that the use of paid sick leave is for an authorized purpose. When the absence is due to illness or injury of an employee or family member, acceptable verification may include a doctor’s note or signed statement by a health care provider indicating that the use of paid sick leave is necessary to take care of the employee or family member. The Town will not require that the verification provide information regarding the nature of the

condition necessitating the use of sick leave, and will treat any health information about an employee or an employee's family member in a confidential manner consistent with applicable privacy laws.

When the absence is due to circumstances falling under the Domestic Violence, Sexual Assault, and Stalking leave provisions, the employee's choice of any of the following documents, or any combination thereof, will satisfy this verification requirement:

- A written statement that the employee or an employee's member is a victim of domestic violence, sexual assault, or stalking, and that the leave was taken to address related issues.
- A police report indicating that the employee or the employee's family member was a victim of domestic violence;
- Evidence from a court or prosecuting attorney showing that the employee or the employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;
- A court order of protection;
- Documentation from any of the following persons from whom an employee or an employee's family member sought assistance in addressing the domestic violence situation indicating that the employee or the employee's family member is a victim:
 - An advocate for victims of domestic violence, sexual assault, or stalking;
 - An attorney;
 - A member of the clergy; or
 - A medical professional.

Verification must be provided to your supervisor within ten (10) calendar days of the first day employee used paid sick leave.

Unreasonable Burden of Expense for Verification.

The verification required under this provision will not result in an unreasonable burden and expense on the employee. If an employee anticipates that the required verification will result in an unreasonable burden or expense, he or she will be permitted to provide an oral or written explanation to the Mayor which asserts:

- That the employee's use of paid sick leave was for an authorized purpose; and
- How the verification requirement creates an unreasonable burden or expense on the employee.

Within ten calendar days of the employee providing an explanation to the Mayor about the existence of an unreasonable burden or expense, the Mayor must either accept the employee's written verification that the use of leave was for an authorized purpose or he/she must make a reasonable effort to identify alternatives for the employee to meet the Town's verification requirement in a manner which does not result in an unreasonable burden or expense on the employee.

A doctor's certificate may be required when an employee is absent for a period in excess of three (3) days. The Town may also request the opinion of a second doctor at the Town's expense to

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~~determine whether the employee suffers from a chronic physical or mental condition which impairs his/her ability to perform the job. Employees who are habitually absent due to illness or disability may be terminated if their disability cannot be reasonably accommodated and/or when the employee's absenteeism prevents the orderly and efficient provision of services to the citizens of the Town.~~

The maximum number of sick leave hours that may be carried over from one year to the next is 960 hours. Employees who use all their accumulated sick leave and require time off work due to illness or injury may, with their supervisor's prior approval, request a leave without pay. (See Leave Without Pay Policy.)

Employees will not be paid for any unused sick leave upon leaving Town service for any reason.

8.3 LEAVE WITHOUT PAY

The Mayor may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for an ill relative, or pursuing an education.

8.4 JURY AND WITNESS LEAVE

Jury Duty. The Town provides all employees leave for the full period of jury duty service. Regular full-time and part-time employees who have completed their trial period receive paid jury duty leave of up to two weeks each time they are called for jury service. In general, if jury duty extends beyond two weeks in any one instance the additional leave will be unpaid. Exempt salaried employees who are asked to serve longer than two weeks should contact the Mayor to discuss whether further paid leave will be provided. Payment provided by the courts during periods of paid jury duty leave must be turned over to the Town, excluding expense reimbursements, such as mileage. You must provide your supervisor with a copy of the jury duty summons as soon as possible after receiving it. Upon completion of jury duty, you are required to provide your supervisor with proof of jury service.

Witness Duty. All employees summoned to testify in court are allowed time off for the period they serve as witnesses. In general, witness duty leave is unpaid unless you are a witness in a case involving the Town. For exempt salaried employees, however, salary payment will continue except for full-day absences caused because the employee is a party in a lawsuit.

8.5 ADMINISTRATIVE LEAVE

On a case-by-case basis, the Town may place an employee on administrative leave with or without pay for an indefinite period of time. Administrative leave may be used in the best interests of the Town (as determined by the Mayor) during the pendency of an investigation or other administrative proceeding or for any reason as may be determined by the Mayor.

8.6 MILITARY LEAVE FOR ACTIVE DUTY IN THE ARMED FORCES.

The Town will comply with the requirements of RCW 73.16 and the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, with respect to unpaid leave of absence and return rights for employees who leave Town service to serve in the Armed Forces of the United States.

(a) "Day" shall mean the employee's normal workday for purposes of paid military leave, except that when a normal workday begins before midnight and ends after midnight, the hours before midnight count as 1 day and the hours after count as another.

(b) An employee who takes a military leave of absence from Town employment may choose to run out his or her unused vacation balance, compensatory time off, and personal holidays, as applicable, prior to going on unpaid status.

(c) An employee who leaves a job, voluntarily or involuntarily, to enter active duty in the United States armed forces, shall be granted a military leave of absence with guaranteed restoration to his or her position upon release from active duty as long as:

(1) The position is a regularly budgeted, non-temporary position;

(2) The reason the employee leaves the position is to report for active duty;

(3) The length of the employee's military leave of absence does not exceed five (5) years except at the request of the federal government;

(4) The employee is honorably discharged from the military; and

(5) The employee applies for reemployment within a reasonable period of time following separation from active duty. The USERRA defines a reasonable period of time as:

(A) (For service less than 31 days, the beginning of the first regularly scheduled work day after release from active duty, allowing time to travel from the duty arena to the employee's residence, to rest, and to travel to the place of employment;

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(B) For service between 31 and 180 days, no more than 14 days following release from active duty; and

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(C) For service longer than 180 days, no more than 90 days following release from active duty.

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(6) An employee on military leave of absence shall continue to accrue service credit for purposes of salary step increments and seniority, but will not accrue sick leave, vacation leave, or other types of leave while on military leave of absence.

(7) An employee's vacation accrual rate and unused vacation and sick leave balances accrued prior to taking military leave shall be restored upon return from military leave of absence.

(8) An employee who interrupts his or her probation or trial service with a military leave of absence shall complete the remainder of the probationary or trial service period upon return. However, an employee returning from military leave of absence cannot be discharged except for cause for 1 year following his or her return if the military leave of absence was for 181 days or longer, or for 6 months following his or her return if the military leave of absence was at least 30 days but less than 181 days.

(9) An employee on unpaid military leave of absence may continue to make his or her normal contributions to their retirement system (as allowed by that system), or may, upon return from such leave, make full or monthly payments equal to the amount of contributions missed while on leave, in order that the leave shall count as creditable service (as allowed by that system).

(d) The provisions of this rule apply to full-time employees

(e) For full-time employees who are represented under the terms of a collective bargaining agreement, this rule prevails except where it conflicts with the collective bargaining agreement, any memoranda of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.

Paid Military Leave:

State law (RCW 38.40.060) requires that Town employees be granted up to twenty-one (21) working days, exclusive of normal days off, of paid leave per year without loss of service credit for required military duty, training, or drills. Such military leave of absence shall be in addition to any vacation or sick leave to which the employee might otherwise be entitled, and shall not involve any loss of efficiency rating, privileges, or pay. The twenty-one (21) days are counted on an annual basis, October 1st through September 30th inclusive, and need not be used consecutively.

Each day of paid military leave is the equivalent of a regularly scheduled workday, except when an employee's regularly scheduled workday spans 2 calendar days (i.e., third or "graveyard" shift" or firefighter shifts). In those instances, one workday ends at midnight and the next begins at 12:01 a.m. (For an employee who works 10 p.m. to 6:30 a.m., for example, 10 p.m. to midnight would be day 1 of his or her military leave, and 12:01 a.m. to 6:30 a.m. and 10 p.m. to midnight the following day would constitute day 2 of his or her military leave.)~~The Town provides all employees leave while performing military service in accordance with federal and state law. Regular full-time and part-time employees receive paid military leave of up to 15 working days per year for military service. In general, if military service extends beyond 15 working days, the additional leave will be unpaid. Exempt salaried employees who serve longer than two weeks should contact the Mayor to discuss whether further paid leave will be provided. All employees who are not eligible for paid military leave are provided unpaid leave for a period of their military service.~~

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Military service includes active military duty and Reserve or National Guard training. You are required to provide your supervisor with copies of your military orders as soon as possible after they are received. Reinstatement upon return from military service will be determined in accordance with applicable federal and state law.

8.7 BEREAVEMENT LEAVE

The Town provides regular, full-time and part-time employees with paid leave for up to three (3) days in the event of the death of an immediate family member.

8.8 SHARED LEAVE PROGRAM

The Mayor may authorize employees to donate their accrued leave to another Town employee who is suffering from or who has an immediate family member suffering from an extraordinary or severe illness, injury, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or to terminate his/her employment. The donating employee may donate accrued vacation leave, compensatory time, sick leave, and/or floating holiday time. All donations of leave are strictly voluntary. The following conditions apply:

- Leave Donation Requirements:

Employees may donate four (4) or more hours of accrued vacation leave, four (4) or more hours of accrued compensatory time, and four (4) or more hours of accrued floating holiday time.

Employees may donate four (4) or more hours of accrued sick leave, as long as they retain a balance of sick leave of at least ten (10) days after the donation is made.

- The employee receiving donated leave shall have exhausted all his/her accumulated vacation leave, sick leave, compensatory time, and floating holiday time.
- While an employee is using shared leave, he or she will continue to receive the same treatment, in respect to salary and benefits, as the employee would otherwise receive if using vacation or sick leave.
- Returning Unused Shared Leave: Any unused shared leave must be returned at its original value to the donor(s) when the leave is no longer needed. Unused shared leave hours donated to an individual employee will be returned to the donor(s) on a pro rata basis.
- Administrative Considerations. Leave donation value is calculated as follows:

(Donor's hourly salary rate) x (total leave hours donated) = total donation value

The hours of shared leave credited to the shared leave recipient is calculated as follows:

(Total donation value)/(recipient's hourly salary rate) = total shared leave hours received

8.9 HOLIDAYS

The following are recognized as paid holidays for all regular full-time and part-time employees:

New Year's Day	January 1
Martin Luther King's Birthday	3 rd Monday in January
Presidents' Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4 th Thursday in November
Day after Thanksgiving	Day after Thanksgiving
Christmas Day	December 25
Floating Holiday	1 additional day during each year of service for regular part-time employees
Floating Holiday	2 additional days during each year of service for regular full-time employees

Any holiday falling on Saturday will be celebrated on the preceding Friday. Any holiday falling on Sunday will be celebrated on the following Monday.

Non-exempt regular full-time or part-time employees will be paid for the holiday plus one and one-half times their regular rate of pay for any time worked on the holiday, (other than a personal Floating Holiday). Such time must be pre-authorized by the Mayor except in the case of an emergency that requires action to prevent a loss of life or damage to property. Temporary employees will be paid at their regular hourly rate for hours worked on a holiday.

All new employees must satisfactorily complete their trial period to be entitled to use personal Floating Holiday time.

8.10 RELIGIOUS HOLIDAYS

~~If an employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the employee may, with the Mayor's approval, take the day off using vacation, compensatory time, or leave without pay. Employees are entitled to two (2) unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.~~

8.11 BENEFITS FOR PART-TIME AND TEMPORARY EMPLOYEES

Unless noted otherwise in these policies, benefits for regular part-time and temporary employees

are as follows:

Regular Part-Time Employees: Compensation in the form of all leaves and paid holidays are pro-rated. Pro-rated means the ratio between the number of hours in the employee's normal work schedule and forty (40) hours per week.

Temporary Employees: Temporary employees normally are not eligible to receive benefits, including leaves, holidays, and insurance with the exception of paid sick leave in accordance with Section 8.2 of these policies.-

**CHAPTER 9
EMPLOYEE RESPONSIBILITIES AND CONDUCT**

9.1 GENERAL CODE OF CONDUCT

All Town employees are expected to represent the Town to the public in a professional manner, which is courteous, efficient, and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and the Mayor.

Since the proper working relationship between employees and the Town depends on each employee's on-going job performance, professional conduct and behavior, the Town has established certain minimum standards of personal conduct. Among the Town's expectations are: Basic tact and courtesy towards the public and fellow employees; adherence to Town policies, procedures, safety rules and safe work practices; compliance with directions from supervisors; preserving and protecting the Town's equipment, grounds, facilities, and resources; and providing orderly and cost efficient services to its citizens.

Employees should not engage in conduct or activity that may raise questions as to the Town's honesty, impartiality, or reputation or otherwise cause embarrassment to the Town. Employees will avoid any action, whether or not specifically prohibited in the personnel policies, which might result in or reasonably be expected to create the appearance of:

- (a) Use of public office or public position for private gain;
- (b) Giving preferential treatment to any person or entity;
- (c) Losing impartiality;
- (d) Adversely affecting the confidence of the public in the integrity of the Town.

The Town is a relatively small organization. To function as efficiently as possible, we may ask you to perform seemingly "menial" duties outside your regular assignments. It is no reflection on your worth to the Town, but a necessary arrangement for most small organizations.

To make the most efficient use of personnel, the Town also reserves the right to change your work conditions and the duties originally assigned. If these arrangements become necessary, the Town expects your full cooperation.

9.2 OUTSIDE EMPLOYMENT AND CONFLICTS OF INTEREST

Employees shall not, directly or indirectly, engage in any outside employment or financial interest that may conflict, in the Town's opinion, with the best interests of the Town or interfere with the employee's ability to perform his/her assigned Town job. Examples include, but are not limited to, outside employment which:

- (1) prevents the employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the employee's job;
- (2) is conducted during the employee's work hours;
- (3) utilizes Town telephones, computers, supplies, or any other resources, facilities or equipment;
- (4) is employment with a firm which has contracts with or does business with the Town; or
- (5) may reasonably be perceived by members of the public as a conflict of interest or otherwise discredits public service.

An employee, who chooses to have an additional job, contractual commitment, or self-employment, may do so only after obtaining prior approval from the Mayor.

9.3 REPORTING IMPROPER GOVERNMENTAL ACTION

General Policy:

In compliance with the Local Government Employee Whistleblower Protection Act, [Chapter 42.41 RCW 42.41.050](#), this policy is created to encourage employees to disclose any improper governmental action taken by Town officials or employees without fear of retaliation. This policy also safeguards legitimate employer interests by encouraging complaints to be made first to the Town, with a process provided for speedy dispute resolution.

Key Definitions:

Improper Governmental Action: any action by a Town officer or employee that is:

- (1) undertaken in the performance of the official's or employee's official duties, whether or not the action is within the scope of the employee's employment, and
- (2) in violation of any federal, state, or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.
- (3) "improper governmental action" does not include personnel actions (hiring, firing, complaints, promotions, and reassignment, for example). In addition, employees are not free to disclose matters that would affect a person's right to legally protected confidential communications.

Retaliatory Action: any material adverse change in the terms and conditions of an employee's employment.

Emergency: a circumstance that if not immediately changed may cause damage to persons or property.

Procedure for Reporting Improper Government Action: Town employees who become aware of improper governmental action should follow this procedure:

- (1) Bring the matter to the attention of his/her supervisor, if non-involved, in writing, stating in detail the basis for the employee's belief that an improper action has occurred. This should be done as soon as the employee becomes aware of the improper action.
- (2) Where the employee believes the improper action involves the supervisor, the employee may raise the issue directly with the Mayor.
- (3) The Mayor or his designee, as the case may be, shall promptly investigate the report of improper government action. After the investigation is completed, (within thirty (30) days of the employee's report), the employee shall be advised of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

An employee who fails to make a good faith effort to follow this policy shall not be entitled to the protection of this policy against retaliation, pursuant to RCW 42.41.030.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may bypass the above procedure and report the improper action directly to the appropriate government agency responsible for investigating the improper action.

Employees may report information about improper governmental action directly to an outside agency if the employee reasonably believes that an adequate investigation was not undertaken by the Town to determine whether an improper government action occurred, or that insufficient action was taken by the Town to address the improper action or that for other reasons the improper action is likely to recur.

In accordance with RCW 42.41.030(3), the following is a list of appropriate agencies to whom reports of improper governmental actions may be made:

Appropriate Agencies

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the Mayor.

<u>Clark County Prosecutor</u>	<u>State Department of Ecology</u>
<u>1013 Franklin Street</u>	<u>Northwest Regional Office</u>
<u>Vancouver, WA 98660</u>	<u>3190 - 160th Ave SE</u>
<u>360.249.3951</u>	<u>Bellevue, WA 98008-5452</u>
	<u>425.649.7000</u>

<u>Attorney General's Office</u>	<u>State Auditor's Office</u>
<u>Consumer Protection</u>	<u>Capital Campus</u>
<u>800 5th Ave, Suite 2000</u>	<u>302 Sid Snyder Ave SW</u>
<u>Seattle, WA 98104</u>	<u>P.O. Box 40021</u>
<u>206.464.6684</u>	<u>Olympia, WA 98504-0021</u>
	<u>360.902.0370</u>

<u>State Department of Health</u>	<u>Washington State</u>
<u>Health Consumer Assistance</u>	<u>Human Rights Commission</u>
<u>P.O. Box 47890</u>	<u>711 South Capitol Way, Suite 402</u>
<u>Olympia, WA 98504-7890</u>	<u>Olympia, WA 98504-2490</u>
<u>360.236.4030</u>	<u>360.753.6770</u>

<u>Department of Labor & Industries</u>	<u>Washington State</u>
<u>P O Box 44000</u>	<u>Department of Natural Resources</u>
<u>Olympia, WA 98504</u>	<u>P.O. Box 47000</u>
<u>360.902.5800</u>	<u>Olympia, WA 98504-7000</u>
	<u>360.902.1000</u>

Protection Against Retaliation: It is unlawful for a local government to take retaliatory action because an employee, in good faith, provided information that improper government action occurred. Employees who believe they have been retaliated against for reporting an improper government action should follow this procedure:

Procedure for Seeking Relief Against Retaliation:

- (1) Employees must provide a written complaint to the supervisor within thirty (30) days of the occurrence of the alleged retaliatory action. If the supervisor is involved, the notice should go to the Mayor. If the Mayor is involved, the notice should go to the Town Council. The written charge shall specify the alleged retaliatory action and the relief requested.
- (2) The Mayor or appropriate official, as the case may be, shall investigate the complaint and respond in writing within thirty (30) days of receipt of the written charge.
- (3) After receiving the Town's response, the employee may request a hearing before a state administrative law judge (ALJ) to establish that a retaliatory action occurred and to obtain appropriate relief under the law. The request for hearing must be delivered within the earlier of either fifteen (15) days of receipt of the

Town's response to the charge of retaliatory action or forty-five (45) days of receipt of the charge of retaliation to the Mayor or Council for response.

- (4) Within five (5) working days of receipt of a request of hearing the Town shall apply to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge. At the hearing, the employee must prove that a retaliatory action occurred by a preponderance of the evidence in the hearing. The ALJ will issue a final decision not later than forty-five (45) days after the date of the request for hearing, unless an extension is granted.

Policy Implementation: The Mayor (or designee) is responsible for implementing these policies and procedures. This includes posting the policy on the Town's bulletin board, making the policy available to any employee upon request, and providing the policy to all newly hired employees. Officers, managers, and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility.

Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including dismissal.

9.4 POLITICAL ACTIVITIES

Town employees may participate in political or partisan activities of their choosing provided that Town resources and property are not utilized, and the activity does not adversely affect the responsibilities of the employees in their positions. Employees may not campaign on Town time or in a Town uniform or while representing the Town in any way. Employees may not allow others to use Town facilities or funds for political activities.

Any Town employee who meets with or may be observed by the public or otherwise represents the Town to the public, while performing his/her regular duties, may not wear or display any button, badge, or sticker relevant to any candidate or ballot issue during working hours. Employees shall not solicit, on Town property or Town time, for a contribution for a partisan political cause.

Except as noted in this policy, Town employees are otherwise free to fully exercise their constitutional First Amendment rights.

9.5 NO SMOKING POLICY

For health and safety considerations, the Town prohibits smoking by employees in all Town facilities, including Town-owned buildings, vehicles, and offices or other facilities rented or leased by the Town, including individual employee offices.

9.6 PERSONAL POSSESSIONS AND ELECTRONIC COMMUNICATIONS

The Town furnishes desks, closets, and/or lockers for security of employee coats, purses, and other personal possessions. The Town does not assume responsibility for any theft or damage to

the personal belongings of employees. The Town reserves the right to search employee desks, lockers, and personal belongings brought onto Town premises.

The Town also furnishes computers for use in conducting Town business. Because the computers are for Town business, the Town reserves the right to review the contents of any files or documents on the computer, including contents of any electronic mail. Town computers are not for personal use.

9.7 USE OF TOWN VEHICLES AND EQUIPMENT

Use of Town phones for local personal phone calls should be kept to a minimum; long distance personal use is prohibited. Other Town equipment, including vehicles, should be used by employees for Town business only. An employee's misuse of Town services, telephones, vehicles, equipment or supplies can result in disciplinary action including termination.

9.8 BULLETIN BOARDS

Information of special interest to all employees is posted regularly on the Town bulletin boards. Employees may not post any information on these bulletin boards without the authorization of the Mayor.

9.9 CONTACT WITH THE NEWS MEDIA

The Mayor shall be responsible for all official contacts with the news media during working hours, including answering of questions from the media. The Mayor may designate specific employees to give out procedural, factual, or historical information on particular subjects.

9.10 SEAT BELT POLICY

Per Washington law, anyone operating or riding in Town vehicles must wear seat belts at all times.

9.11 DRIVER'S LICENSE REQUIREMENTS

As part of the requirements for certain specific Town positions, an employee may be required to hold a valid Washington State Driver's license. If an employee's license is revoked, suspended, or lost, or is in any way not current, valid, and in the employee's possession, the employee shall promptly notify his/her supervisor and will be immediately suspended from driving duties. The employee may not resume driving until proof of a valid, current license is provided to his/her supervisor. Depending on the duration of license suspension, revocation, or other inability to drive, an employee may be subject to disciplinary action, including termination.

9.12 SOLICITATIONS

Most forms of selling and solicitations are inappropriate in the workplace. They can be an intrusion on employees and citizens and may present a risk to employee safety or to the security

of Town or employee property. The following limitations apply:

- (1) Persons not employed by the Town may not solicit, survey, petition, or distribute literature on Town premises at any time. This includes persons soliciting for charities, salespersons, questionnaire surveyors, labor union organizers, or any other solicitor or distributor. Exceptions to this rule may be made in special circumstances where the Town determines that an exception would serve the best interests of the Town and its employees. An example of an exception might be the United Way campaign or a similar, community-based fund raising effort.
- (2) Employees may not solicit for any purpose during work time. Reasonable forms of solicitation are permitted during non-work time, such as before or after work or during meal or break periods. Soliciting employees who are on non-work time may not solicit other employees who are on work time. Employees may not distribute literature for any purpose during work time or in work areas.

9.13 SAFETY

Every employee is responsible for maintaining a safe work environment and following the Town's safety rules. Each employee shall promptly report all unsafe or potentially hazardous conditions to his/her supervisor. The Town will make every effort to remedy problems as quickly as possible.

In case of an accident involving a personal injury, regardless of how serious, employees shall immediately notify the Mayor.

Since being exposed to a blood-borne pathogen may lead to sickness such as hepatitis, AIDS, or malaria, and since the Town wants to assure our employees as safe and healthy work environment as possible, it is the policy of the Town to comply with all statutory obligations for the prevention of exposure to blood-borne pathogens.

Employee safety depends on the safety consciousness of everyone. In order to facilitate a safe work environment, employees may not bring dangerous weapons to the workplace. This includes, but is not limited to, weapons for which employees have a valid permit. The only exception to this rule involves law enforcement positions for which the job requires possession of dangerous weapons.

9.14 SUBSTANCE ABUSE

The Town philosophy on substance abuse has two focuses: (1) a concern for the well being of the employee and (2) a concern for the safety of other employees and members of the public.

Availability of Rehabilitation or Treatment: As part of our employee assistance program, we encourage employees who are concerned about their alcohol or drug use to seek counseling, treatment, and rehabilitation. Although the decision to seek diagnosis and accept treatment is completely voluntary, the Town is fully committed to helping employees who voluntarily come

forward overcome substance abuse problems. In most cases, the expense of treatment may be fully or partially covered by the Town's benefit program. In recognition of the sensitive nature of these matters, all discussions will be kept confidential. Employees who seek advice or treatment will not be subject to retaliation or discrimination.

When Job Performance is Affected: Although the Town is concerned with rehabilitation, it must be understood that disciplinary action may be taken when an employee's job performance is impaired because he/she is under the influence of drugs or alcohol on the job. The Town may discipline or terminate an employee possessing, consuming, selling, or using alcohol, or controlled substances (other than legally prescribed) during work hours. The Town may also discipline or terminate an employee who reports for duty or works under the influence of alcohol or controlled substances. An employee may be required to submit to alcohol or controlled substance testing when the Town has reasonable suspicion that the employee is under the influence of controlled substances or alcohol. Refusal to submit to testing, when requested, may result in immediate disciplinary action, including termination.

Drug-Free Workplace: Based on the federal Drug-Free Workplace Act, the manufacturing, distribution, dispensation, possession, and use of unlawful drugs or alcohol on Town premises or during work hours by Town employees is strictly prohibited. Employees also must notify the Town within five (5) days of any conviction for a drug violation in the workplace. Violation of this policy can result in disciplinary action, including termination. Continued poor performance or failure to successfully complete a rehabilitation program is grounds for termination.

**CHAPTER 10
DISCIPLINE AND TERMINATIONS**

10.1 TERMINATIONS

The Town of Yacolt may terminate employment because of an employee's resignation, discharge, or retirement; the expiration of an employment contract; or a permanent reduction in the workforce. Termination can be for any reason not prohibited by law. In the absence of a specific written agreement, employees are free to resign at any time and for any reason, and the Town of Yacolt reserves the right to terminate employment for cause or for convenience.

10.2 ACTIONS SUBJECT TO DISCIPLINARY ACTION

All employees are expected to perform their job duties and to exercise good judgment, loyalty, common sense, dedication and courtesy in the performance of those duties, and to comply with the provisions of these guidelines, department directives, policies and procedures, and the Town's Code of Conduct. The primary mission of each employee is to provide courteous, orderly, efficient and economic delivery of services to the citizens consistent with the Town's rules, regulations, applicable laws and the general goals and targets of the Town. Failure to meet these expectations may establish cause for discipline.

The following are examples of types of behavior which may result in discipline. This is by no means an exhaustive list, but merely illustrates the type of behavior not consistent with the general code of conduct expected of employees.

- (1) Misrepresentation or withholding of pertinent facts in securing employment.
- (2) Unauthorized use or possession of the Town facilities/property.
- (3) Unauthorized use of position for personal gain or advantage. Accepting unlawful gratuities or bribes.
- (4) Lying or dishonesty of any kind, on or off the job.
- (5) Smoking in any unauthorized posted area or creating fire hazards in any area.
- (6) Violation of dress standards.
- (7) Violation of the Town's telephone use policy.
- (8) Violation of the Town's Electronic Communications policy.
- (9) Failure to report an occurrence causing damage to the Town, a customer, or public property. Failure to properly secure the Town's facilities or property.

- (10) Loitering after completing day's work that results in the disruption of the Town's business or the work effort of other employees. Vending, soliciting, or collecting contributions for any purpose whatsoever during working time on the premises without the permission of the supervisor.
- (11) Unauthorized operation or use of machines, tools, or equipment to which the employee has not been specifically assigned.
- (12) Unauthorized recording of another employee's time record. Both employees can be subject to disciplinary action.
- (13) Habitual lateness for work. Absence without proper notification to immediate supervisor, excessive absenteeism, or insufficient reasons for absenteeism. Loitering, goofing off, failing to assist others in a work situation.
- (14) Making malicious, false, or derogatory statements that are intended or could reasonably be expected to damage the integrity or reputation of the Town or Town employees, on or off premises.
- (15) Disorderly conduct, including fighting on the premises. Rudeness, discrimination, intimidation, coercion, use of obscene language or gestures or lack of courtesy to the public or fellow employees. Immoral conduct while on duty.
- (16) Intentional falsification of records/paperwork required in the transaction of the Town's business.
- (17) Inability, inefficiency, negligence, or insubordination, including a refusal or failure to perform assigned work or follow reasonable instructions or directions. Concealing defective work.
- (18) Failure to observe safety practices, rules, regulations, and instructions. Negligence that results in or creates the risk of injury to others. Failure to wear required safety clothing and equipment.
- (19) Failure to promptly report to your immediate supervisor an on-the-job injury or accident involving an employee, equipment, property, or visitor.
- (20) Dishonesty or theft, including deliberate destruction, damage, or removal of the Town's or other's property from the premises, or any job site. Misappropriation or illegal use of the Town's supplies, equipment, or time for personal use or gain.
- (21) Possession, use, sale, or being under the influence of alcohol and controlled substances while on the Town's business (including standby duty). The only exception to this rule shall be for an employee using or possessing a controlled substance prescribed by a doctor if such employee has given his/her supervisor prior notice of such use and/or possession and such use does not impair safe

and/or efficient work performance.

- (22) Possession of explosives or weapons on the premises or any job site.
- (23) Conviction of a felony or misdemeanor.
- (24) Sexual harassment.
- (25) Discrimination, in the conduct of the Town's business on the basis of race, religion, sex, color, national origin, sexual orientation, or disability, age, marital status, pregnancy, or political ideology.
- (26) Disclosure of confidential information gained by reason of the employee's position or use of such information for the employee's personal gain or benefit.
- (27) Off-duty conduct of the employee that impairs an employee's work performance or the Town's reputation or interests.
- (28) Failure of the employee to meet his or her financial obligations in a timely manner such that they adversely affect job performance or the Town of Yacolt's image in the community.
- (29) Violation of the duties or rules imposed by this Manual or any other Town rule, regulation, administrative order, applicable state law or other lawful duty.

10.3 POSSIBLE DISCIPLINARY ACTION

In the event that discipline is necessary, the following types of disciplinary actions may be used, depending on the particular situation:

- (1) Oral Warning.
- (2) Written Reprimand.
- (3) Suspension.
- (4) Demotion.
- (5) Termination.

The choice of what discipline to apply in any particular case is solely the Town's. The existence of these disciplinary options in no way obligates the Town to follow the options and the Town in its sole discretion may select any one of these options as its final decision. Any particular disciplinary action taken with respect to one employee in a given situation is not to be relied upon as an indication of future treatment in similar situations. Any disciplinary action taken by the Town short of termination is without waiver of the Town's rights under the at-will

employment relationship.

10.4 LAYOFF

The Mayor may lay off employees for lack of work, budgetary restrictions, reorganization or other changes that have taken place.

Temporary employees or employees who have not completed their trial period will be laid off before regular employees are affected. In determining who is to be laid off, consideration will usually be given to individual performance and the qualifications required for remaining jobs. Seniority will be considered when performance and qualifications are equal, as determined by the Town. Employees who are laid off may be eligible to be re-employed if a vacancy occurs in a position for which they are qualified.

10.5 RESIGNATION

An employee should provide four (4) weeks notice of resignation. This time limit may be waived by the Mayor.

CHAPTER 11 COMPLAINT PROCEDURES

11.1 COMPLAINT PROCEDURES

The Town recognizes that sometime situations arise in which employees feel that they have not been treated fairly or in accordance with Town policies. For this reason the Town provides its employees with procedures for resolving complaints, including but not limited to job terminations.

Step 1: Employees should first try to resolve any problem or complaint with their supervisor.

Step 2: When normal communications between an employee and the supervisor are not successful, or when an employee disagrees with the application of Town policies and procedures, the employee should attempt to resolve the problem with the Mayor.

Step 3: If the employee is not satisfied with the response from the Mayor, the employee may submit the problem, in writing, to the Town Council. The written complaint must contain, at a minimum:

- (1) A description of the problem;
- (2) A specific policy or procedure which the employee believes has been violated or misapplied;
- (3) The date of the circumstances leading to the complaint or the date when the employee first became aware of those circumstances;
- (4) The remedy sought by the employee to resolve the complaint.

The written complaint must be filed within fifteen (15) working days of the occurrence leading to the complaint.

The Town Council may determine that a special meeting or workshop is required to address the issue. The special meeting will be held within thirty (30) days of the date the complaint was filed. The Council's response and decision shall be final and binding.

**CHAPTER 12
EMPLOYMENT CLASSIFICATION**

12.1 CHANGES TO JOB DESCRIPTIONS

Job descriptions and/or the duties of any employee of the Town may be described and changed at any time in the Town's sole discretion and without notice to the employee.

12.2 CLERK/TREASURER

The Clerk/Treasurer shall have all of the abilities and duties permitted by statute (RCW 35.27.170 and RCW 35.27.220 as currently enacted or hereafter amended).

The Clerk/Treasurer shall maintain all of the records required by statute (RCW 35.27.230 as currently enacted or hereafter amended).

If requested, the Clerk/Treasurer shall present the minutes of the previous Town Council meeting at each Town Council meeting and shall ask the Town Council to approve the minutes. If requested, the Clerk/Treasurer shall make any changes requested by the Council.

In addition, the Clerk/Treasurer shall conduct or engage in the following. The following specified conduct is illustrative and not comprehensive and is not intended to supplant or remove any of the statutory duties:

Council Support:

- Prepare agenda reports, ordinances and resolutions
- Assemble agenda for Mayor and/or Town Council review
- Make corrections and additions to reports and agenda
- Assemble final agenda and accomplish copying for Council packets
- Attend all regular and special Town Council meetings and some study sessions
- Perform accurate recording of the proceedings
- Prepare minutes using proper legislative terminology, grammar and business writing, update minutes book
- Compose and type follow-up with other agencies
- Obtain signatures on ordinances and resolutions; publish in newspaper and file originals
- Maintain official ordinance and resolutions books and file original documents
- Prepare certified copies when necessary
- Record pending agenda items
- Communicate with public and staff on Council action
- Prepare and advertise meeting and legal notices; distribute to Council, staff, and newspapers

Business Licensing:

- Receive applications for and issue town business licenses, including permanent, home occupation, temporary merchant, and solicitors
- Answer business license inquiries by phone and in person
- Assist public in application process and receive license fees
- Refer home occupation conditional uses to Council
- Complete license and forward to applicant
- Maintain cross reference file on business and license number
- Enter information into computer database
- Maintain business license records
- Prepare renewal letter and license application for annual business license
- Receive completed applications and manually validate with signature, date issued and receipt of payment
- Update database with any new business information (i.e. out of business or no renewal)

Public Information:

- Provide public information on town codes, ordinances, Council meetings, Council action taken and business licenses
- Communicate official plans, policies and procedures to the general public
- Provide public records and information to citizens, civic groups, the media and other agencies per public disclosure regulations
- Answer general questions (i.e. garbage service, transfer station, Chamber of Commerce, Department of Licensing, etc.)

Contract Administration:

- Determine whether published bid or written quotes process applies
- Coordinate with engineering consulting firm to:
 - Arrange bid call advertisement
 - Provide bid documents to contractors and vendors
 - Collect plan fees and issue receipts
 - Maintain bidders list
 - Track bid openings and assure proper submittal of bid and performance bonds
 - Record bids and notify bidders of apparent lowest bid
 - Prepare and mail award and rejection letters after bid acceptance
 - Assemble contract, obtain signatures and forward final documents to contractor
 - Return bid bonds to unsuccessful bidders
 - Obtain clearances from Department of Revenue, Employment Security, Department of Labor and Industries
 - Provide timely return of retainage and bid on performance bond

Records Management:

- Serve as custodian of official town records and public documents
- Cross-reference Council minutes, ordinances, resolutions, and agreements
- Enter information in computer database
- Prepare and file all records
- Maintain legal files, including records retention schedules

Insurance Claims:

- Receive insurance claims against town
- Coordinate in-house insurance claims
- Submit all damage claims to AWC RMSA pool
- Answer questions from people filing claims and status of payment

Secretarial Support:

- Type miscellaneous letters, agenda reports, and correspondence
- Complete various surveys and reports

Land Use Requirements:

- Prepare legal notices for annexations, rezones and street vacations
- Complete and forward state annexation forms and census information
- File original annexation documents upon approval
- File certified copies of annexations, rezones and street vacations with County Auditor
- Update record books

Oaths of Office:

- Administer oaths of office for Mayor and Town Council members
- Obtain signed oaths from Town Council and Mayor

Cemetery:

- Issue deeds for sale of cemetery plots
- Maintain records of cemetery plots

Reconcile and Receipt Monies:

- Receive monies
- Verify accuracy of transmittals; issue receipt noting appropriate BARS code number

Prepare Bank Deposit:

- Combine cash, coin, and checks from monies receipted
- Balance total cash and checks received to receipts
- Complete bank deposit slip; deposit with bank

Prepare Treasurer's Monthly Report:

- Review Treasurer's receipts and disbursements; verify fund and BARS code numbers
- Total receipts and disbursements monthly; verify and/or make corrections
- Review report for errors
- Balance individual fund totals to affected reports

Perform Town Funds Investment:

- Invest excess idle and reserve monies
- Provide information for investment decisions
- Maintain contact with investment agents
- Input, balance, and maintain the "Investment Ledger"
- Maintain separate ledgers for various longterm accounts
- Maintain knowledge of investment strategies, interest rates, terminology, and problems

Process Payments on Various Accounts:

- Prepare vouchers noting appropriate fund and BARS code numbers
- Prepare warrants and remit to vendors

Budget:

- Prepare annual budget
- Compare monthly receipts and disbursements and accumulated receipts and disbursements to budget

Annual Report:

- Prepare annual report as required by State Auditor's Office
- Complete follow-up with State Auditor's Office

Audit:

- Coordinate with representatives from State Auditor's Office
- Make appropriate procedural changes based on recommendations by State Auditor's Office

Miscellaneous Duties:

- Coordinate response to dog complaints with Clark County Animal Control
- Receive monies and issue receipts for Clark Public Utilities' payments; report and remit payments to CPU
- Maintain records and files on various ordinance compliance matters
- Filing

12.3 PUBLIC WORKS DIRECTOR

The Public Works Director is responsible for regular maintenance of the Town infrastructure, including, but not limited to the following:

- Operate town equipment including backhoes, small graders, street sweepers, dump trucks and loaders, lawn mowers, snow plows, sanders, chain saws, leveling vibrators, jack hammers, shovels, pick axes, crow bars, road graders, tractor mowers, etc.
- Perform routine equipment maintenance and minor field repairs such as lubrication, checking fluid levels and replacing belts and other components as required
- Perform work in accordance with all federal, state and local laws, rules and regulations and within mandated and appropriate safety standards
- Operate and service heavy road and construction equipment and light motor vehicles
- Cleans roadside ditches, culverts and catch basins
- Repairs streets, guardrails, and sidewalks
- Installs and repairs street and traffic control signs
- Performs brush cutting
- Coordinates with other agencies for pavement striping; street sweeping; clearing snow and ice from streets; and tree trimming
- Performs upkeep of parks and cemetery including watering, mowing, fertilizing, weed control, trimming, and rodent control
- Analyzes and troubleshoots problems such as street and sidewalk damages or obstructions
- Plans and schedules work priorities; requisitions supplies and equipment; and

periodically inspects tools and equipment to ensure that proper care and maintenance is being performed

- Prepares periodic work progress reports; maintains required records and logs; and maintains employee time records
- Provides on-site direction and guidance to employees during assignments, and inspects work in progress and upon completion to ensure compliance with work standards and local codes, and proper safety techniques and procedures
- Responsible for approving construction change orders up to 0.5% of contract amount prior to the Town Council's approval
- Plans and implements a comprehensive Public Works program for the town; integrates public works programs and activities with other city, county, state, and federal departments and/or agencies
- Prepares studies, reports, and recommendations relative to the Public Works programs and special projects; determines and recommends what Public Works programs or major projects should be initiated, dropped, or modified
- Perpetuates Public Works improvements and projects by initiating and/or assisting in the acquisition of grants, easements, etc.; determines the resources need for approved projects; and reviews work activities to ensure efficient and safe operations and conformance with established state, county, and town standards, regulations and policies
- Prepares budget estimates and controls the expenditure of department funds; this includes the planning and budgeting for future Public Works activities; evaluating services rendered in relation to cost vs. benefits derived and continuing need
- Initiates periodic study and analysis of street and pedestrian traffic flow, congestion, accidents, and other conditions affecting the safe and convenient use of streets and walkways
- Attends various hearings, seminars, and civic and business meetings on behalf of the Public Works Department
- Establishes street logs to gauge effectiveness of maintenance programs
- Reviews building permit applications for zoning compliance
- Performs repairs and maintenance of town buildings
- Measuring for the correct placement of graves; supervises excavation work and replacement of sod

- Maintain public restrooms at town park in a clean and sanitary condition

In addition, the Public Works Director must be certified to accomplish the following:

- Maintenance and repair of water mains, pumps, motors, main line valves, fire hydrants, meters and storage tanks
- Perform meter reading
- Analyze and troubleshoot problems such as water leaks and breaks; malfunctioning or inoperative water system pumps, motors, controls; and water system overload or misuse
- Install main water lines; accomplish hookups and flush to test installations according to established procedures
- Inspect new water lines at construction sites and take samples and chlorination readings
- Perform maintenance and repairs on reservoirs, pumps, and booster pumps
- Install and maintain transmission and distribution lines

12.4 PUBLIC WORKS MAINTENANCE ASSISTANT

Desired Qualifications: A background in public works operations and duties. Highly responsible person who performs activities related to public works and equipment. A background in equipment operations and maintenance. The ability to work well with the public. Person must be organized and self-motivated.

The Public Works Maintenance Assistant is responsible for assisting with the regular maintenance of the Town infrastructure, including, but not limited to the following:

- Assists in planning and scheduling work priorities; assists in requisitioning supplies and equipment
- Operate town equipment including backhoes, small graders, street sweepers, dump trucks and loaders, lawn mowers, snow plows, sanders, chain saws, leveling vibrators, jack hammers, road graders, tractor mowers, excavators, and various hand tools, etc.
- Performs upkeep of parks and cemetery including watering, mowing, fertilizing, weed control, trimming, and rodent control
- Perform work in accordance with all federal, state and local laws, rules and

regulations and within mandated and appropriate safety standards

- Operate and service heavy road and construction equipment and light motor vehicles
- Cleans roadside ditches, culverts and catch basins
- Repairs streets, guardrails, and sidewalks
- Installs and repairs street and traffic control signs
- Performs brush cutting
- Perform routine equipment maintenance and minor field repairs such as lubrication, checking fluid levels and replacing belts and other components as required
- Perform and assist snow clearing and ice removal from streets; and tree trimming
- Assists in analyzing and troubleshooting problems such as street and sidewalk damages or obstructions
- Maintains street logs to gauge effectiveness of maintenance programs
- Performs repair and maintenance of town buildings
- Measuring for the correct placement of graves; supervises excavation work and replacement of sod
- Maintain public restrooms at town park in a clean and sanitary condition
- Assists with periodic studies and analysis of street and pedestrian traffic flow, congestion, accidents, and other conditions affecting the safe and convenient use of streets and walkways
- Currently certified as a Level 2 Septic System Inspector or to be trained and certified within one year of date of hire
- Minor welding and fabricating related to maintenance of facilities and equipment - Experience using an acetylene torch
- Organize and maintain the Town's maintenance shop and other storage and working areas

12.5 CUSTOMER SERVICE CLERK

The Customer Service Clerk is responsible for assisting the Town Clerk/Treasurer with duties and responsibilities, including, but not limited to the following:

Business Licensing:

- Receive applications for and issue town business licenses, including permanent, home occupation, temporary merchant, and solicitors
- Answer business license inquiries by phone and in person
- Assist public in application process and receive license fees
- Refer home occupation conditional uses to Council
- Complete license and forward to applicant
- Maintain cross reference file on business and license number
- Enter information into computer database
- Maintain business license records
- Prepare renewal letter and license application for annual business license
- Receive completed applications and manually validate with signature, date issued and receipt of payment
- Update database with any new business information (i.e. out of business or no renewal)

Public Information:

- Provide public information on town codes, ordinances, Council meetings, Council action taken and business licenses
- Provide public records and information to citizens, civic groups, the media and other agencies per public disclosure regulations
- Answer general questions (i.e. garbage service, transfer station, Chamber of Commerce, Department of Licensing, etc.)

Records Management:

- Serve as custodian of official town records and public documents
- Cross-reference Council minutes, ordinances, resolutions, and agreements
- Enter information in computer database
- Prepare and file all records
- Maintain legal files, including records retention schedules

Secretarial Support:

- Type miscellaneous letters, agenda reports, and correspondence
- Complete various surveys and reports

Cemetery:

- Issue deeds for sale of cemetery plots
- Maintain records of cemetery plots

Reconcile and Receipt Monies:

- Receive monies
- Verify accuracy of transmittals; issue receipt noting appropriate BARS code number

Prepare Bank Deposit:

- Combine cash, coin, and checks from monies received
- Balance total cash and checks received to receipts
- Complete bank deposit slip; deposit with bank

Process Payments on Various Accounts:

- Prepare vouchers noting appropriate fund and BARS code numbers
- Prepare Warrants/Claims and remit to vendors

Miscellaneous Duties:

- Coordinate response to dog complaints with Clark County Animal Control
- Receive monies and issue receipts for Clark Public Utilities' payments, report and remit payments to CPU
- Maintain records and files on various ordinance compliance matters
- Filing

CHAPTER 13 SUMMARY

These policies are not intended to be a contract, express or implied, or any type of promise or guarantee of specific treatment upon which you may rely, or as a guarantee of employment for any specific duration. The employer has sole discretion whether to apply handbook policies in a particular case. The Town can and will exercise flexibility and discretion with regard to the policies described in this manual, and to act apart from any procedures described herein. The Town has the right to completely disregard the contents of this policy.

UNLESS SPECIFIC RIGHTS ARE GRANTED TO YOU IN EMPLOYMENT CONTRACTS, CIVIL SERVICE RULES, OR ELSEWHERE, ALL EMPLOYEES OF THE TOWN ARE CONSIDERED AT-WILL EMPLOYEES AND EITHER PARTY MAY TERMINATE THE RELATIONSHIP ANY TIME, WITH OR WITHOUT CAUSE AND WITH OR WITHOUT NOTICE.

No supervisor, manager, or representative of the Town other than the Mayor, with Town Council approval, has the authority to enter into any agreement with you for employment for any specific period or to make any written or verbal commitments contrary to the foregoing.