RESOLUTION NO. 2021-13

A RESOLUTION OF THE TOWN OF NACHES, WASHINGTON, ADOPTING BY REFERENCE BOARD OF YAKIMA COUNTY COMMISSIONERS ORDINANCE NO. 5-2017 TO ACHIEVE COMPLIANCE WITH THE GROWTH MANAGEMENT ACT (GMA) REQUIRING LOCAL GOVERNMENTS TO DESIGNATE CRITICAL AREAS AND DEVELOP REGULATIONS FOR THEIR PROTECTION

WHEREAS, RCW 36.70A, the Growth Management Act (GMA) requires all local governments to designate Critical Areas and develop regulations for their protection (RCW 36.70A.170(1)(d), RCW 36.70A.060(2)). The GMA defines Critical Areas as (1) wetlands, (2) areas with a critical recharging effect on aquifers used for potable water, (3) fish and wildlife habitat conservation areas, (4) frequently flooded areas, and (5) geologically hazardous areas (RCW 36.70A.030(5)); and

WHEREAS, Yakima County, for all Critical Areas within Yakima County including those within the Town limits of the Town of Naches, has reviewed, evaluated and authored though the Yakima County Planning Commission Findings and Recommendations after conducting extensive public hearings and receiving additional evidence from governmental agencies to meet the requirements of GMA in regards to all Critical Areas located within the County; and

WHEREAS, the Board of Yakima County Commissioners has evaluated the Yakima County Planning Commission's Findings and Recommendations, subjected said Findings and Recommendations to environmental review, resulting in edits to such Findings and Recommendations from the Yakima County SEPA Official who eventually issued a Determination of Non Significance (DNS), with the Yakima County Commissioners further subjecting its Planning Commission's Findings and Recommendations to additional public input and scrutiny with legislative deliberations; and

WHEREAS, the Board of Yakima County Commissioners after having carefully considered the Yakima County Planning Commission's Findings and Recommendations, written and oral testimony of the public and governmental agencies, recommendations from staff, changes proposed by members of the Board of Yakima County Commissioners, did adopt by Ordinance No. 5-2017 (a copy of which is attached hereto), revising the Critical Areas Ordinance of Yakima County, Washington, Yakima County Code Title 16C; and

WHEREAS, administrative staff for the Town of Naches has disseminated copies of the Board of Yakima County Commissioner's Ordinance No. 5-2017 to members of the Naches Town Council along with copies of Yakima County's Critical Area's Ordinance, Yakima County Code Title 16C for review; and

WHEREAS, given the Yakima County Planning Commission and Board of Yakima County Commissioner's careful research and review of all Critical Areas within Yakima County, including those within the Town limits of the Town of Naches, the exhaustive public participation process through which Ordinance No. 5-2017 was subjected, understanding that the Town of Naches is also required under Growth Management Act (GMA) to designate Critical Areas and develop regulations for their protection, and concluding that Yakima County Ordinance No. 5-2017 and the revisions made to Yakima County Code Title 16C with regard to Critical Areas are also in the best interests of the Town of Naches;

NOW, THEREFORE,

BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NACHES, WASHINGTON, AS FOLLOWS:

1. The Naches Town Council hereby adopts by reference the provisions of Yakima County Code Title 16C, Critical Areas Ordinance for application to all lands under the jurisdiction of the Town of Naches, Washington.

PASSED BY THE TOWN COUNCIL OF THE TOWN OF NACHES, WASHINGTON, THIS 8th DAY OF NOVEMBER, 2021.

Paul Williams, Mayor

Attest:

Elvira Birrueta, Clerk/Treasurer

Approved as Form:

Michael F. Shinn, Attorney

BOARD OF YAKIMA COUNTY COMMISSIONERS
ORDINANCE NO. 5-2017

IN THE MATTER OF ADOPTING ORDINANCE NO. 5-2017 PERTAINING TO THE GROWTH MANAGEMENT ACT UPDATE TO YAKIMA COUNTY CODE TITLE 16C, CRITICAL AREAS ORDINANCE, OF YAKIMA COUNTY

WHEREAS, RCW 36.70A, the Growth Management Act (GMA), requires all local governments to designate Critical Areas, and develop regulations for their protection (RCW 36.70A.170 (1)(d), RCW 36.70A.060 (2)). The GMA defines Critical Areas as (1) wetlands, (2) areas with a critical recharging effect on aquifers used for potable water, (3) fish and wildlife habitat conservation areas, (4) frequently flooded areas, and (5) geologically hazardous areas (RCW 36.70A.030(5)); and

WHEREAS, the Board most recently updated the Critical Areas Ordinance (CAO) in 2007 (Ordinance No. 13-2007), and settled points of appeal in 2013 (Ordinance 4-2013); and

WHEREAS, the GMA requires Yakima County to review and evaluate its development regulations and to take legislative action, if needed, to revise its development regulations to ensure they comply with the requirements of, and time periods in, RCW 36.70A; and

WHEREAS, WAC 365-190-080 establishes minimum guidelines for what Yakima County must include in protecting each critical area; and

WHEREAS, the GMA (RCW 36.70A.172) also requires Yakima County to include the review of Best Available Science (BAS) and give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries in its review of its development regulations; and

WHEREAS, Substitute Senate Bill 5248 was signed by the Governor on May 8th, 2007 and became a part of GMA 36.70A.700, known as the Voluntary Stewardship Program. Section 2 of the bill requires that for the period beginning May 1, 2007, and concluding July 1, 2010, counties and cities shall defer amending or adopting critical areas ordinances as they specifically apply to agricultural activities on agricultural and rural lands; and

WHEREAS, nothing in Substitute Senate Bill 5248 nullifies critical areas ordinances adopted prior to May 1, 2007, to comply with the GMA; and

WHEREAS, nothing in Substitute Senate Bill 5248 applies to the GMA compliance requirements pertaining to critical areas not associated with such agricultural activities, or limits counties or cities from enacting voluntarily measures that protect critical areas associated with agricultural activities. Counties and cities that defer amending their critical areas ordinances must review and revise these ordinances as they apply to such agricultural activities by December 1, 2011; and

WHEREAS, the GMA (36.70A.020) also requires Yakima County to consider and balance the 13 goals of the Act; and

WHEREAS, staff and the Planning Commission (PC) included the best available science in drafting revisions to the CAO; and

WHEREAS, the PC conducted a duly advertised and noticed study sessions on the proposed amendments to the CAO (TXT17-002, CAO16-08) on February 8, 2017, February 22, 2017, March 8, 2017, and March 22, 2017; and

WHEREAS, the PC conducted a duly advertised and noticed public hearing on the CAO on April 12, 2017; and

WHEREAS, the PC deliberated on the matter on May 3, 2017 and May 10, 2017; and

WHEREAS, the PC, having carefully considered the written and oral testimony of the public, agencies, recommendations from staff, changes proposed by commission members in its deliberations, did revise the proposed CAO; and

WHEREAS, on May 10, 2017, the Planning Commission, by motion and vote, unanimously approved its recommendation that the Board adopt the revised CAO; and

WHEREAS, the PC presented its Findings and Recommendation (see Exhibit 2) to the Board at a properly advertised study session on May 18, 2017; and

WHEREAS, the Yakima County SEPA Official issued a Determination of Non-significance (DNS) (SEP17-06) for the proposed edits to the CAO on April 24, 2017, which included a comment period and a retention notice on May 17, 2017; and

WHEREAS, the Board conducted a duly advertised and noticed open record public hearing on the proposed amendments to the CAO on June 13, 2017 to receive written and oral testimony on the Planning Commission's Findings and Recommendation; and

WHEREAS, all persons desiring to speak or submit evidence for the record were given the opportunity to do so; and

WHEREAS, immediately following the hearing on June 13, 2017 the Board began its legislative deliberations; and

WHEREAS, RCW 36.70.630 requires the adoption of findings of fact and statement setting forth the factors considered which justify the Board of Yakima County Commissioners action to amend the Planning Commissions recommendation; and

WHEREAS, the Board, having carefully considered the Planning Commission's Findings and Recommendation, written and oral testimony of the public and agencies, recommendations from staff, and changes proposed by the Board members during deliberations of the record, did debate issues of concern and made decisions by consensus or by vote to revise the Planning Commission's Findings and Recommendations; and

WHEREAS, the Board directed staff to prepare ordinance text changes as necessary to implement their revisions (see Exhibit 1 - Critical Areas Ordinance of Yakima County, Washington, Yakima County Code Title 16C); and

WHEREAS, the Board is now satisfied that this legislative matter has been sufficiently considered, and that the process leading to the development of the updated CAO has been open, extensive, continuous and afforded opportunities to all who wanted to participate or offer testimony; and

WHEREAS, the Board of Yakima County Commissioners further concludes that adoption and implementation of the CAO is in the public interest and essential to direct the future growth and development of Yakima County, consistent with the County's Comprehensive and meets the requirements of the Growth Management Act;

NOW, THEREFORE, the Board does herby ordain as follows:

Section 1. Reasons for Action.

The Growth Management Act (GMA), requires all local governments to designate Critical Areas, and develop regulations for their protection (RCW 36.70A.170 (1)(d), RCW 36.70A.060 (2)). The GMA requires Yakima County to review and evaluate its comprehensive plan and development regulations every 8 years and to take legislative action, if needed, to revise them to ensure they comply with the requirements of, and time periods in, RCW 36.70A.

Section 2. Findings.

A. Compliance with 2017 GMA Update Process. The amendments to YCC Title 16C Critical Areas Ordinance (TXT17-002, CAO16-08) adopted by this ordinance are in substantial compliance with Public Participation Plan and RCW 36.70A (the Growth Management Act, or GMA).

B. State Environmental Policy Act (SEPA). Yakima County has complied with the environmental review process required by SEPA for the CAO update. The Yakima County SEPA Official issued a Determination of Non-significance (DNS) (SEP17-06) for the proposed edits to the CAO on April 24, 2017, which included a comment period and a retention notice on May 17, 2017.

C. Board Changes to PC Findings and Recommendations. The Board of Yakima County Commissioners adopts the changes to YCC Title 16C Critical Areas Ordinance (TXT17-002, CAO16-08) as detailed in the Findings of Fact and Recommendations of the Planning Commission dated May 10, 2017, with modifications and shown in the Exhibit 1. YCC Title 16C shall apply to all unincorporated lands under Yakima County's land use jurisdiction, except for lands under jurisdiction of the Shoreline Management Act (RCW 90.58) and requirements of Voluntary Stewardship Program 36.70A.700 for agricultural activities conducted on agricultural and rural lands.

Section 3. Retention. To meet the requirements of Substitute Senate Bill 5248, the existing CAO, codified as YCC Title 16A shall be retained for the regulation of agricultural activities on designated agricultural and rural lands.

Section 4. Preparation of Final Comprehensive Plan Document. County staff are hereby directed to complete final preparation of CAO, correct any typographical or formatting edits, and include appropriate graphics and illustrations.

Section 5. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the resolution, or the validity of its application to any other persons or circumstances.

Section 6. Effective Date. Pursuant to the Growth Management Act (RCW 36.70A), Yakima County must publish a Notice of Adoption within 10 days after the Board's approval of this ordinance, thus starting the required 60 appeal period. Therefore, this ordinance becomes effective on the 61st day after posting of the Notice of Adoption, unless successfully appealed.

DONE this 27th day of June, 2017

J. Rand Elliott, Chairman

Ron Anderson, Commissioner

Michael D. Leita, Commissioner

Constituting the Board of County Commissioners for Yakima County, Washington

SEAL OF THE BOARD OF YAKIMA COUNTY COMMISSIONERS STATE OF WASHINGTON

Attest: Tiera Girard
Clerk of the Board

Exhibit 1 – Critical Areas Ordinance of Yakima County, Washington, Yakima County Code Title 16C.
Exhibit 2 – Yakima County Planning Commission Findings and Recommendations