

Violations of the Yakima County Code by Fryslan Calf Ranch

Friends of Toppenish Creek

July 22, 2025

In February of 2025 the Friends of Toppenish Creek (FOTC) filed a complaint with Yakima County Code Enforcement regarding multiple, major violations of requirements in a conditional use permit (CUP) by the Fryslan Calf Ranch. Yakima County agrees that Fryslan committed these violations. Did Yakima County subsequently shield Fryslan Calf Ranch from penalties for the violations? After five months it appears that nothing has changed.

FOTC believes that Yakima County Code Enforcement had a legal obligation to issue a Notice of Violation (NOV) but failed to do so. Because the county did not issue an NOV, other measures contingent upon issuance of the NOV have not taken place. For example, there is no Voluntary Compliance Agreement, the preferred remedy. There are no timelines for corrections and no fines to cover costs of enforcement.

Furthermore, the Fryslan Calf Ranch conditional use permit (CUP) has expired pursuant to YCC 16B.07.050 (3)(a), but Fryslan continues to operate as usual. Fryslan pumps large amounts of groundwater, a public resource, every day and generates substantial income for owners, while taxpayers pay to address adverse impacts.

FOTC has devoted hundreds of hours of volunteer time towards uncovering violations. Our work saves taxpayers thousands of dollars that would otherwise be needed to fund investigation. FOTC has a vested interest in the outcome of this case. We have a right to be closely involved in the process, but we have been sidelined from the investigation.

Background:

In 2017 Yakima County approved a mitigated determination of non-significance (MDNS) for Fryslan Calf Ranch for 1,500 calf hutches on 30 acres. Later that year Yakima County issued, and a Hearing Examiner approved, a conditional use permit (CUP) with several mitigation measures:

A1: The feedlot must operate in accordance with an approved Nutrient Management Plan

B1: The feedlot must submit a Dust Control Plan to the Yakima Regional Clean Air Agency and comply with the provisions therein.

E1 The feedlot must agree to a conservation easement or deed restriction that protects the shrub steppe habitat on certain properties.

Fryslan must deliver and comply with a deed of restriction regarding pumpage from certain wells north of the Yakima River so there is no net increase in groundwater withdrawals.

Fryslan must submit a stormwater site plan.

Fryslan had three years to comply with the requirements in the CUP and the Hearing Examiner's ruling:

But Fryslan has still not completed most of the required mitigation measures. Fryslan has:

1. Expanded beyond the permitted perimeters
2. Added more calves than permitted
3. No Nutrient Management Plan
4. No proof of a domestic water right
5. No mitigation for Yakima River water rights
6. No permanent form of protection – conservation easement or deed restriction – to preserve shrub steppe habitat
7. No fire permits
8. No Group A or Group B Water System Permit
9. No Grading and Excavation Permits
10. No Stormwater Site Plan
11. No Dust Control Plan
12. Violated conditions in the Well Monitoring Covenant

Concise Listing of Applicable Yakima County Code

Available at [Yakima County Code](#):

Fryslan's actions constitute a violation of YCC 16B.07.050

And the Fryslan Calf Ranch CUP has expired pursuant to YCC 16B.07.050 (3)(a)

According to YCC 16B.07.050 (4)(a), it is too late to remediate the CUP expiration.

The only option available to Fryslan, as we understand the YCC, is to start the application process all over. See YCC 16B.07.050 (4)(f).

We believe it is illegal to approve a new CUP that is contingent upon permits when the required permitted actions have already been agreed to and not completed. We believe it is illegal to issue a permit after the fact.

Fryslan is subject to penalties pursuant to YCC 16B.11 and YCC 21.

The Fryslan violations are public nuisances according to YCC 16B.11.010

Public nuisances are misdemeanors according to RCW 9A.20.010

Yakima County Code Enforcement is obligated to act on verified complaints according to YCC 16B.11.030 & YCC 16B.11.040 and YCC 21.03.010.

Fryslan has failed to secure proper permits and is in violation of the YCC pursuant to YCC 16B.11.040 (1), (3), & (4).

According to YCC 16B.11.050 (1) anyone who violates YCC 16, 16B, 16C, 16D, or 19 is guilty of a misdemeanor and is subject to a civil infraction. A misdemeanor is punishable by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment for not more than NINETY (90) days, or by both such fine and imprisonment. Each day of violation is a separate offense, but there is a caveat. The punishment only applies after issuance of a Notice of Violation. Yakima County has not issued a Notice of Violation to Fryslan.

According to YCC 16B.11.050 (4) the Yakima County Prosecutor has an affirmative duty to seek relief for violations of YCC 16, 16B, 16C, 16D, or 19

Title 21 Code Enforcement of the YCC also applies.

According to YCC 21.01.050 Fryslan has committed a Civil Code Violation with a separate infraction for every day that the infraction continues. In this subsection there is no mention of the need for a NOV.

According to YCC 21.02.010 all violations of Yakima County Codes are nuisances.

YCC 21.02.030 gives Yakima County Code Enforcement discretion as to whether to enforce and prosecute code violations.

But YCC 21.03.010 requires Yakima County Code Enforcement to document a violation and give notice when Code Enforcement determines that a violation has occurred. Yakima County Code Enforcement has determined that violations occurred.

YCC 21.03.010 (1) requires code enforcement to write a notice with a timeline for remediation or entering a Voluntary Compliance Agreement. (We do not believe this has been done. We have submitted a public records request for a NOV or Voluntary Compliance Agreement for Fryslan and received neither.)

Failure to make corrections by the agreed upon deadlines subjects the violator to penalties.

There is an option for appeal, but only after a notice has been issued.

There are provisions for waiving the notice requirement at the discretion of the Code Enforcement Officer. See YCC 21.03.010 (2).

YCC 21.03.010 (3) requires the Code Enforcement Officer to consider the severity of the public impact. For Fryslan the impact is substantial.

YCC 21.03.010 (4) says the time period for correction cannot exceed 30 days.

To the best of our knowledge Yakima County has not issued these orders that are authorized by YCC 21.03.020 (1)(a)

- Stop Work Order
- Investigation Report
- Violation Notice
- Correction Notice
- Correction Order
- Final Notice

According to YCC 21.03.040 a Voluntary Compliance Agreement is the preferred remedy to code violations.

According to YCC 21.03.040 (1) (a) a Voluntary Compliance Agreement may be entered into at any time after issuance of a written notice, a Civil Infraction, a Notice and Order or a Stop Work Order.

The YCC does not say that a Voluntary Compliance Agreement may be entered into before issuance of notices and orders.

To the best of our knowledge Yakima County and Fryslan Calf Ranch have not entered into a Voluntary Compliance Agreement and there has been no Notice of Violation.

Yakima County Code Enforcement can refer a case to legal counsel if a permittee does not comply with a final order. See YCC 21.03.060

A certificate may be filed with the Yakima County Auditor pursuant to YCC 21.03.070. This would be a necessary step prior to filing a lien against property.

YCC 21.04.010 says that any person, firm or corporation failing to comply with a notice of violation or order to comply served in accordance with the provisions of YCC 16, 16B, 16C, 16D, or 19 shall be deemed guilty of a violation and subject to a citation or civil infraction as provided in this Title.

YCC 21.04.010 (3) says the Code Enforcement Officer shall institute appropriate enforcement proceedings when there is non-compliance with a corrective order.

Fryslan has escaped significant penalties because Yakima County has not issued a NOV. Those penalties are prescribed in YCC 21.04.030 Civil Infractions, YCC 21.04.040 Monetary Penalties, YCC 21.04.050 Judicial Enforcement, & YCC 21.04.060 Abatement.

We believe that YCC 21.040.020 prohibits Fryslan Calf Ranching from obtaining a new CUP unless the violations are remediated and corrected. This part of the code does not allow a new permit that rescinds the requirements in a previous permit. The YCC provides for land use and investigation violation fees when a person takes actions such as construction without appropriate permits. See YCC 21.04.040 (2). Again, the fees accrue after issuance of a NOV.

Yakima County's failure to properly follow the YCC and issue an NOV relieves violators from requirements to pay and instead places the burden of damage repair on taxpayers.

Finally, we point out that WA State Water laws apply.

Applicable Yakima County Code Spelled Out

Available at [Yakima County Code](#):

Fryslan's actions constitute a violation of YCC 16B.07.050

16B.07.050 Compliance, Extension, Expiration and Reinstatement.

(1) Compliance with Conditions and Safeguards of Project Permit. It is the affirmative duty of a project permit holder and the land owner (as applicant) to comply with any conditions made a part of the terms under which the approval of a project permit was granted as authorized by Yakima County Code. The applicant shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions. When the conditions of the project permit have been met within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the applicant shall provide a letter certifying that the conditions were met to the Administrative Official to document compliance.

(2) Extension of Any Approved Project Permit. A valid project permit, other than a preliminary plat, may be extended one time only for up to one additional year by action of the Administrative Official.

(a) Requests for extensions shall be made in writing, shall be submitted to the Planning Division prior to the expiration date and shall be accompanied by the final approved site plan showing the location and size of any development or work already completed on the project. Such extension request shall present a timeline that identifies when each of the conditions of the decision has or will

be completed and shall detail unique and special circumstances that prohibited the commencement or completion, or both, of the use authorized.

(b) The Administrative Official shall review the request without public notice or hearing and issue the decision within fourteen days from the receipt of the completed request. The Administrative Official may:

(i) Approve the extension based on a work schedule provided by the applicant to assure the work will be completed according to a modified schedule, or

(ii) Disapprove the extension.

(c) The Administrative Official shall mail the decision to the applicant and shall specify the decision as final unless appealed to the Hearing Examiner under the provisions of Chapter 16B.09 of this Title. Conditions of approval listed previously in the notice of decision issued pursuant to 16B.07.010 through 16B.07.030 of this Chapter may be appealed only according to the procedures and time periods specified in YCC 16B.09.010 and are not subject to appeal again following any decision or determination of the Administrative Official made under this Section 16B.07.050.

(3) Failure to Complete Approved Permit Conditions within Specified Timeframe and Failure to Comply with Permit Decisions or Conditions.

(a) Expiration. If compliance with the terms of the project permit approval has not occurred within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the project shall be considered expired by time limitation and the land use approval shall be null and void. Expiration of a project permit granted pursuant to Yakima County Code shall not be subject to appeal.

(b) Violations. A project permit issued or processed pursuant to any applicable Title listed in YCC 16B.01.020 will be deemed in violation of this Code if it is ascertained that the application included any false information material to the project permit approval, or if it develops that the conditions and safeguards made a part of the terms under which the approval was granted are not being maintained. Such violations of project permit approval shall be subject to Chapter 16B.11 and other remedies available to Yakima County under any applicable law to enforce conditions of permit approvals, remedy land use and code violations or abate those violations including without limitation YCC Title 21.

(c) Compliance Agreement. The applicant and the County may enter into a compliance agreement to complete the required conditions subject to appropriate fees to compensate the County in preparing, recording and implementing the compliance agreement. On terms acceptable to the Administrative Official, in his or her sole discretion, the County may offer an extension of time to complete the required conditions of approval subject to appropriate fees to compensate the County in preparing, recording and implementing any such compliance agreement; provided, however, that no compliance agreement may be used in lieu of the permit process to remove or negotiate conditions of approval.

(4) Reinstatement. Where a project permit has expired, the applicant may apply to have the permit reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

- (a) The applicant submits a written request not more than sixty days after the original permit or authorized extension expired.
 - (b) The applicant provides a timeline for successful achievement of all conditions upon which the Administrative Official can agree.
 - (c) The codes under which the original permit was issued and other laws which are enforced by Yakima County have not been amended in any manner which affects the work authorized by the original permit.
 - (d) No changes have been made or will be made in the original plans and specifications for such work.
 - (e) The applicant submits a reinstatement fee. The fee for a reinstated permit shall be seventy percent of the amount required for a new project permit pursuant to YCC Title 20.
 - (f) Where the request for reinstatement does not comply with all of the preceding criteria in this Subsection, a new project permit application must be submitted and processed as a new project, at full permit fees.
- (Ord. 12-2024 § 1 (Exh. 1), 2024; Ord. 7-2017 § 2 (Exh. A)(part), 2017; Ord. 5-2012 § 2 (Exh. A) (part), 2012).

And the Fryslan Calf Ranch CUP has expired pursuant to YCC 16B.07.050 (3)(a)

- (3) Failure to Complete Approved Permit Conditions within Specified Timeframe and Failure to Comply with Permit Decisions or Conditions.
 - (a) Expiration. If compliance with the terms of the project permit approval has not occurred within the timeframe specified by the decision and any subsequent extension authorized by the applicable code, the project shall be considered expired by time limitation and the land use approval shall be null and void. Expiration of a project permit granted pursuant to Yakima County Code shall not be subject to appeal.

According to YCC 16B.07.050 (4)(a), it is too late to remediate the CUP expiration.

- (4) Reinstatement. Where a project permit has expired, the applicant may apply to have the permit reinstated and the work authorized by the original permit can be recommenced, provided the following are met:
 - (a) The applicant submits a written request not more than sixty days after the original permit or authorized extension expired.

The only option available to Fryslan, as we understand the YCC, is to start the application process all over. See YCC 16B.07.050 (4)(f).

(4) Reinstatement. Where a project permit has expired, the applicant may apply to have the permit reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

(f) Where the request for reinstatement does not comply with all of the preceding criteria in this Subsection, a new project permit application must be submitted and processed as a new project, at full permit fees.

We believe it is illegal to approve a new CUP that is contingent upon permits when the required permitted actions have already been agreed to and not completed. We believe it is illegal to issue a permit after the fact.

Fryslan is subject to penalties pursuant to YCC 16B.11 and YCC 21.

The Fryslan violations are public nuisances according to YCC 16B.11.010

16B.11.010 Purpose.

The purpose of this Chapter is to promote compliance with permit decisions, conditions and this Title by establishing enforcement authority, defining violations, and setting standards for initiating the procedures set forth in this Title when violations of YCC Title 16B or applicable Titles listed in YCC 16B.01.020 occur. Notwithstanding other remedies in this chapter, any building or structure set up, erected, built, used, moved or maintained or any use of property contrary to the provisions of this Title or any Title of Yakima County Code listed in YCC 16B.01.020, shall be and the same is declared to be a public nuisance. The appropriate Reviewing Official may seek legal or equitable (including injunctive) relief or other forms of civil relief in superior court. The provisions of this chapter are completely supplemental to other provisions of Yakima County Code. Provisions of this chapter are neither an exclusive remedy nor a prerequisite for any other administrative or judicial action authorized by law.

Public nuisances are misdemeanors according to RCW 9A.20.010

RCW 9A.20.010

Classification and designation of crimes.

(1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

(i) Class A felony; or

(ii) Class B felony; or

(iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than one thousand dollars, or by imprisonment in a county jail for not more than ninety days, or by both such

fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors.

Yakima County Code Enforcement is obligated to act on verified complaints according to YCC 16B.11.030 & YCC 16B.11.040 and YCC 21.03.010.

YCC 16B.11.030 Complaints.

Whenever a violation of this Title or any Title of Yakima County Code listed in YCC [16B.01.020](#) occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Code Enforcement Official. He or she shall record such complaint, investigate and in consultation with the Administrative Official take action thereon as deemed appropriate and as provided by this Title and/or YCC Title 21, as may be applicable; provided, however, that enforcement shall be undertaken for the benefit of the health, safety, and welfare of the general public and the environment and not for any particular person or class of persons.

YCC 16B.11.040 Violations.

- (1) It is a violation of this Title for any person to initiate or maintain, or to cause to be initiated or maintained, any use, alteration, construction, location, or demolition of any structure, land, or property within Yakima County without first obtaining permits or authorizations required by this Code.*
- (2) It is a violation of this Title to remove or deface any sign, notice, complaint, or order required by or posted in accordance with this Code.*
- (3) It is a violation of this Title to misrepresent any material fact in any application, plans, or other information submitted to obtain any project permit authorization.*
- (4) It is a violation for any person to fail to comply with provisions of this Code, to fail to comply with the terms or conditions of a permit issued pursuant to this Title, or to fail to comply with any or all notices or orders issued pursuant to this Code.*

YCC 21.03.010 Noticing Procedures.

If the Yakima County Code Enforcement Official or his or her designee has determined that a violation has occurred, the violation shall be documented and notice of it given as follows:

- (1) A notice, as set forth under Section 21.03.020 shall be issued in writing when a field inspection reveals a violation, or as soon as the County otherwise determines a violation has occurred. The notice shall inform the Owner or Responsible Party of the violation and set a deadline that will allow the Owner or Responsible Party an opportunity to correct it or to enter into a voluntary compliance agreement pursuant to this Title.*

YCC 21.03.020 (3) When evaluating the status of a code violation, the Code Enforcement Official will take into consideration the guidelines listed under Section YCC 21.02.030 and may consider a number of relevant factors and criteria, including but not limited to the severity of the public impact, the time and cost required to abate the nuisance violation, the likelihood of cost recovery of abatement, and the County resources available to abate the nuisance violation.

YCC 21.03.020 Notice of Violation and Orders.

As set forth in YCC Section 21.01.040, the Code Enforcement Official, or his or her designee, are authorized to serve a notice of a violation or notice and order on the Owner or Responsible Party. The notice shall contain an order directing the discontinuance of the activity, action or conditions creating the violation, and requiring compliance with the notice and/or order.

(1) Types of Notices and Orders.

(a) Notices Used for All Types of Violations;

- (i) **Stop Work Order** - an initial notice to cease activity until the appropriate authorizations have been obtained by the appropriate permitting agency;
- (ii) **Investigation Report** – Used by Code Enforcement staff for nuisance properties as a first notice which explains the nuisance ordinance and describes corrective measures that need to be taken in an effort to obtain voluntary compliance;
- (iii) **Violation Notice** – These notices are issued for general violations of County Code (e.g., voluntary compliance agreement);
- (iv) **Correction Notice** – These notices are generally used by the Code Enforcement or Building Division staff to list items not conforming to County Code;
- (v) **Correction Order** – These notices are issued when other notices or actions have failed to correct a violation and/or the violation is serious or extensive (e.g., Notice of Violation and Order to Correct, Nuisance Notice and Order, etc.)
- (vi) **Final Notice** – These notices are Yakima County’s last attempt to gain compliance prior to issuance of a civil infraction or other legal action;
- (vii) Or, any other notice deemed appropriate by Code Enforcement for the effective resolution of the particular code violation.

(2) Form.

(a) Official notices or orders shall:

- (i) Be in writing.
- (ii) Include a description of the real estate, and/or tax identification (parcel) number where the violation is located sufficient for identification.
- (iii) Include a statement of the violation or violations and why the notice is being issued.

- (iv) Include a correction order specifying a deadline for corrective actions such as:
- (A) Discontinuance of the unlawful activity, action or condition which is in violation of the provisions of the codes adopted by this title, or
 - (B) Completion of repairs and improvements required to bring the building or structure into compliance with the provisions of the codes adopted by this title, or
 - (C) Obtaining such permits and approvals will be required to be in compliance with governing regulations or statutes, or
 - (D) Taking such action as ordered to resolve an unsafe or dangerous condition or activity.
 - (E) Any combination of the listed corrective actions or others necessary to achieve compliance and protect the public health, safety.
- (b) Include a statement that the property owner, person, firm, corporation, or other responsible party, may enter into a voluntary correction agreement with Yakima County.
- (c) Include a statement that the Code Enforcement Official, his or her designee, **will issue or cause to be issued a Civil Infraction, a monetary penalty, a citation, or may institute appropriate proceedings at law or in equity** as provided in the codes referenced by this Title, if the property owner, person, firm, corporation, or other responsible party, does not comply with the notice and/or order.
- (d) Include a statement that the Code Enforcement Official **may issue a notice of abatement** if the property owner, person, firm, corporation, or other responsible party, does not comply with the notice.
- (e) Inform the property owner, person, firm, corporation, or other responsible party, of the authority granted to Yakima County to seek abatement of the violation.
- (f) Include a statement of the authority of the Code Enforcement Official, his or her designee, to **file a lien in accordance with the provisions of this Title** and YCC Chapter [13.11](#) Section 106.3.
- (3) Method of service.

Such notice shall be deemed to be properly served if a copy thereof is:

- (a) Posted on the property containing the violation, with an Affidavit of Service; or
- (b) Sent by certified and first-class mail addressed to the last known address of the property owner, person, firm, corporation, or other responsible party; or
- (c) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- (d) If the whereabouts of any persons with an interest in the property or responsibility for the property is unknown and the same cannot be ascertained by the Code Enforcement Official in the exercise of reasonable diligence, then the Code Enforcement Official may serve the notice or order in accordance with methods a and/or b above. This method of

service shall require an Affidavit of Service. The Affidavit of Service shall include the facts showing the efforts used in attempting to serve the person personally or by mail.

(4) Unauthorized tampering.

Signs, tags, seals, notices, or placards posted or affixed by the Code Enforcement Official, or his or her designee, shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Enforcement Official, or his or her designee. Persons tampering with signs, tags, seals, notices, or placards posted or affixed by the Code Enforcement Official, or his or her designee, may be issued Civil Infractions.

(Ord. 11-2019 (part), 2019).

Fryslan has failed to secure proper permits and is in violation of the YCC pursuant to YCC 16B.11.040 (1), (3), & (4).

According to YCC 16B.11.050 (1) anyone who violates YCC 16, 16B, 16C, 16D, or 19 is guilty of a misdemeanor and is subject to a civil infraction. A misdemeanor is punishable by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment for not more than NINETY (90) days, or by both such fine and imprisonment. Each day of violation is a separate offense, but there is a caveat. The punishment only applies after issuance of a Notice of Violation. Yakima County has not issued a Notice of Violation to Fryslan.

YCC 16B.11.050 Penalties.

(1) Any person, firm or corporation violating any of the provisions of this Title or any Title of Yakima County Code listed in YCC 16B.01.020, including the provisions of the various Codes adopted by reference therein, or failing to comply therewith, or violating or failing to comply with any order or decision issued or made pursuant to any provisions of said Codes shall severally and for each and every violation and non-compliance respectively, be guilty of a misdemeanor or shall be subject to a civil infraction as provided for by Chapter 7.80 RCW, YCC Section 21.04.030 or any other remedy provided by law and, further, such violation shall constitute a public nuisance. Any person so convicted of a misdemeanor shall be punished for each offense by a fine of not more than ONE THOUSAND DOLLARS (\$1,000.00) or by imprisonment for not more than NINETY (90) days, or by both such fine and imprisonment. Each day, or any portion thereof, after written notice of a violation has been issued shall be considered a separate offense.

(2) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation, after being notified of such violation, may each be found guilty of a separate offense and suffer the penalties provided in this Section and YCC Title 21.

(3) In addition to the penalties described in this Chapter and YCC Title 21, actions that can be taken by the County include, but are not limited to: withholding any and all permits for development or land division, unless said permit or application is directly related to a proper remedy of the violation; assessing double fees for all permits and applications necessary to remedy the violation; notifying by

certified mail all property owners of record of the violation and remedies required to abate the violation; abating or otherwise causing the violation to be removed with a lien filed against the property to recover costs; or other such action as may be needed to enforce this code. A violation of this or other County ordinances or state law found to exist on the property may also be considered sufficient grounds for denial of an application by the County if the proposed application cannot and does not remedy the violation. Actions under this Chapter may be taken in any order deemed necessary or desirable by the County to achieve the purpose of this Chapter. The Administrative Official may call upon any appropriate County officials or departments to assist in enforcing this Chapter.

(4) It shall be the affirmative duty of the County Prosecutor's office to seek relief under this Chapter and YCC Title 21 for violations of Title 16B or any Title of Yakima County Code listed in YCC 16B.01.020. Nothing herein contained shall prevent the County Prosecutor's office from taking such lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

According to YCC 16B.11.050 (4) the Yakima County Prosecutor has an affirmative duty to seek relief for violations of YCC 16, 16B, 16C, 16D, or 19

Title 21 Code Enforcement of the YCC also applies.

According to YCC 21.01.050 Fryslan has committed a Civil Code Violation with a separate infraction for every day that the infraction continues. In this subsection there is no mention of the need for a NOV.

21.01.050 Definitions.

This Title incorporates the definitions listed in the codes referenced in the Applicability section under 21.01.020 and the words and phrases designated as follows:

CIVIL CODE VIOLATION means any act or omission contrary to any ordinance, resolution or regulation regulated by this title or an act or omission contrary to the conditions of any permit, notice and order, or stop work order issued pursuant to any such ordinance, regulation or resolution regulated by this title. Each civil code violation shall constitute a separate infraction for each and every day or portion thereof, during which a violation is continued.

According to YCC 21.02.010 all violations of Yakima County Codes are nuisances.

21.02.010 Violations.

(1) Any person, firm, or corporation violating any of the provisions of this Title, including the provisions of the various Codes set forth in 21.01.020, or violating or failing to comply with any order issued or made pursuant to its provisions shall severally and for each and every violation and act of

noncompliance respectively, be deemed responsible for committing the violation or act and is subject to any penalty provided by law and/or as provided for in this Title.

(2) Code Violations defined as Nuisances, in YCC 21.01.050 are subject to the enforcement procedures outlined in this Title and its incorporated code provisions.

(3) All Violations of Yakima County Code provisions, including official notices of violations and of orders issued by the Code Enforcement Official or authorized officials, and of court issued orders, are declared to be nuisances and are subject to the enforcement procedures outlined in this Title.

(4) Every owner, responsible party, occupier, lessee or tenant, of property in violation of the provisions of this Title or who maintains a violation of this Title or who neglects to abate a continuing nuisance upon the subject property, even if originated under a former owner, is liable in the same manner as their predecessors.

YCC 21.02.030 gives Yakima County Code Enforcement discretion as to whether to enforce and prosecute code violations.

21.02.030 Complaint Priority and Response.

The Yakima County Code Enforcement Division generally responds to alleged violations of the Yakima County Codes and regulations based on written citizen complaints or referrals of potential violations from other regulatory agencies. However, if violations of the Yakima County Building Code Title 13 are observed by citizens, agencies or by Yakima County building, fire, and life safety personnel during the course of their inspections; or if an alleged violation creates the risk of immediate or serious or extensive damage or harm, Code Enforcement may take immediate enforcement action prior to receiving a written complaint or referral.

Nothing in this Chapter shall be construed as requiring the County to enforce the prohibitions in this Title against all or any properties which may violate any county code or this Title. The County retains the discretion to enforce and prosecute violations of this ordinance as the County's resources permit. Exercise of such discretion may result in the enforcement and prosecution of a limited number of violations at any given time. Nothing in this Section or the absence of any similar provisions from any other County law shall be construed to impose or create a duty upon the County to enforce such other provision of law.

But YCC 21.03.010 requires Yakima County Code Enforcement to document a violation and give notice when Code Enforcement determines that a violation has occurred. Yakima County Code Enforcement has determined that violations occurred.

21.03.010 Noticing Procedures.

If the Yakima County Code Enforcement Official or his or her designee has determined that a violation has occurred, the violation shall be documented and notice of it given as follows:

(1) A notice, as set forth under Section 21.03.020 shall be issued in writing when a field inspection reveals a violation, or as soon as the County otherwise determines a violation has occurred. The notice shall inform the Owner or Responsible Party of the violation and set a deadline that will allow the Owner or Responsible Party an opportunity to correct it or to enter into a voluntary compliance agreement pursuant to this Title.

(a) A notice and order represents a determination that a code violation has occurred, that the cited party is the person responsible for code compliance, and that the violations set out in the notice and order require abatement as specified in the notice and order.

(b) Failure to correct the code violation by the deadline and in the manner prescribed by the notice and order subjects the person to whom the notice and order is issued and the property in question to any of the compliance remedies provided in this title, including:

(i) Civil penalties prescribed in the notice and order;

(ii) A requirement that abatement, remediation and/or mitigation be performed;

(iii) Permit suspension, revocation, modification, and/or denial as prescribed by this chapter; and/or

(iv) Abatement by Yakima County Public Services and/or their Representative and recovery of the costs of abatement according to the procedures described in this code.

(c) Property owners identified in the notice and order as responsible for code compliance may appeal the notice and order in writing within fourteen days according to the procedures described in this code and in any rules promulgated concerning the appeal process.

(d) Issuance of a notice and order does not limit in any way the Code Enforcement Official's authority to issue a citation or stop work order in the same matter.

(2) Any notice under this section may be waived by the Code Enforcement Official and/or by the Reviewing Official in circumstances such as:

- Emergencies,
- Repeat violations,
- Violations that are already subject to a Voluntary Compliance Agreement,
- Situations where the violation creates or has created a serious life or public safety condition that is not likely to be corrected within 72 hours,
- Cases where a Stop Work Order is necessary to protect life or public safety, or
- When the person responsible for the code violation reasonably should have known, that the action was a code violation.

(3) When evaluating the status of a code violation, the Code Enforcement Official will take into consideration the guidelines listed under Section YCC 21.02.030 and may consider a number of relevant factors and criteria, including but not limited to the severity of the public impact, the time and cost required to abate the nuisance violation, the likelihood of cost recovery of abatement, and the County resources available to abate the nuisance violation.

- (4) All notices shall specify a time frame for compliance of the violation, provided that the initial amount of time for correction shall not be longer than 30 days. A notice or order shall be issued in the event the violation is not corrected in the time period specified in the notice.

YCC 21.03.010 (1) requires code enforcement to write a notice with a timeline for remediation or entering a Voluntary Compliance Agreement. (We do not believe this has been done. We have submitted a public records request for a NOV or Voluntary Compliance Agreement for Frysland.)

21.03.010 Noticing Procedures.

If the Yakima County Code Enforcement Official or his or her designee has determined that a violation has occurred, the violation shall be documented and notice of it given as follows:

(1) A notice, as set forth under Section 21.03.020 shall be issued in writing when a field inspection reveals a violation, or as soon as the County otherwise determines a violation has occurred. The notice shall inform the Owner or Responsible Party of the violation and set a deadline that will allow the Owner or Responsible Party an opportunity to correct it or to enter into a voluntary compliance agreement pursuant to this Title.

(a) A notice and order represents a determination that a code violation has occurred, that the cited party is the person responsible for code compliance, and that the violations set out in the notice and order require abatement as specified in the notice and order.

(b) Failure to correct the code violation by the deadline and in the manner prescribed by the notice and order subjects the person to whom the notice and order is issued and the property in question to any of the compliance remedies provided in this title, including:

- (i) Civil penalties prescribed in the notice and order;
 - (ii) A requirement that abatement, remediation and/or mitigation be performed;
 - (iii) Permit suspension, revocation, modification, and/or denial as prescribed by this chapter; and/or
 - (iv) Abatement by Yakima County Public Services and/or their Representative and recovery of the costs of abatement according to the procedures described in this code.
- (c) Property owners identified in the notice and order as responsible for code compliance may appeal the notice and order in writing within fourteen days according to the procedures described in this code and in any rules promulgated concerning the appeal process.
- (d) Issuance of a notice and order does not limit in any way the Code Enforcement Official's authority to issue a citation or stop work order in the same matter.

Failure to make corrections by the agreed upon deadlines subjects the violator to penalties.

There is an option for appeal, but only after a notice has been issued. YCC 21.06

There are provisions for waiving the notice requirement at the discretion of the Code Enforcement Officer. See YCC 21.03.010 (2).

(2) Any notice under this section may be waived by the Code Enforcement Official and/or by the Reviewing Official in circumstances such as:

- Emergencies,
- Repeat violations,
- Violations that are already subject to a Voluntary Compliance Agreement,
- Situations where the violation creates or has created a serious life or public safety condition that is not likely to be corrected within 72 hours,
- Cases where a Stop Work Order is necessary to protect life or public safety, or
- When the person responsible for the code violation reasonably should have known, that the action was a code violation.

YCC 21.03.010 (3) requires the Code Enforcement Officer to consider the severity of the public impact. For Frysland the impact is substantial.

(3) When evaluating the status of a code violation, the Code Enforcement Official will take into consideration the guidelines listed under Section YCC 21.02.030 and may consider a number of relevant factors and criteria, including but not limited to the severity of the public impact, the time and cost required to abate the nuisance violation, the likelihood of cost recovery of abatement, and the County resources available to abate the nuisance violation.

YCC 21.03.010 (4) says the time period for correction cannot exceed 30 days.

To the best of our knowledge Yakima County has not issued these orders that are authorized by YCC 21.03.020 (1)(a)

- Stop Work Order
- Investigation Report
- Violation Notice
- Correction Notice
- Correction Order
- Final Notice

(4) It shall be the affirmative duty of the County Prosecutor's office to seek relief under this Chapter and YCC Title 21 for violations of Title 16B or any Title of Yakima County Code listed in YCC 16B.01.020. Nothing herein contained shall prevent the County Prosecutor's office from taking such lawful action, legal and/or equitable, as is necessary to prevent or remedy any violation.

According to YCC 21.03.040 a Voluntary Compliance Agreement is the preferred remedy to code violations.

21.03.040 Voluntary Compliance Agreements.

The use of a Voluntary Compliance Agreement made under this section is a preferred corrective alternative to be used/promoted by the Code Enforcement Official. The procedures for their use are as follows:

(1) Authority.

Whenever the Code Enforcement Official, or his or her designee, determines that a code violation has occurred or is occurring, the Code Enforcement Division in appropriate cases may make reasonable efforts to secure voluntary compliance from the person responsible for code compliance. Upon contacting the person responsible for code compliance, the Code Enforcement Official may enter into a Voluntary Compliance Agreement as provided for in this section.

(a) Voluntary Compliance Agreement may be entered into at any time after issuance of a written notice, a Civil Infraction, a Notice and Order or a Stop Work Order.

(b) The Voluntary Compliance Agreement is a commitment and a binding agreement between the County and with the person responsible for code compliance under which the person agrees to do any combination of actions to abate the violation, remediating the site or mitigating the impacts of the violation. It must be definite in its terms and commits both the responsible person and Yakima County to a course of action or forbearance of action in return for compliance with the notice and order.

(2) Form.

The Voluntary Compliance Agreement shall include the following:

- (a) The name and address of the person responsible for code compliance;
- (b) The address or other identification of the location of the violation;
- (c) A description of the violation and a reference to the provision or provisions of the ordinance, resolution or regulation that has been violated;
- (d) A description of the necessary corrective action to be taken and identification of the date or time by which it must be completed. For the purpose of this subsection, the Code Enforcement Official may either require that compliance be achieved by a specific date or that compliance be achieved by a date to be determined based on the occurrence of some future event;

- (e) The amount of the civil and monetary penalty that will be imposed pursuant to Yakima County Code if the Voluntary Compliance Agreement is not satisfied;
- (f) An acknowledgment that the Voluntary Compliance Agreement will be recorded against the property in the County Auditor's office;
- (g) An acknowledgment that if the Code Enforcement Official determines that the terms of the Voluntary Compliance Agreement are not met, the Code Enforcement Division will, without issuing a Civil Infraction, Notice and Order or Stop Work Order, impose any remedy authorized by this Title, which includes but is not limited to the assessment of the civil and monetary penalties identified in the Voluntary Compliance Agreement, correction of the violation, assessment of County costs and expenses necessitated by County pursuit of code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit;
- (h) An acknowledgment that if any assessed penalty, fee or cost is not paid, the County will charge the unpaid amount as a lien against the property where the civil code violation occurred, and that the unpaid amount may be a joint and several personal obligations of all persons responsible for code compliance;
- (i) An acknowledgment that by entering into the Voluntary Compliance Agreement the person responsible for code compliance thereby admits that the conditions described in the Voluntary Compliance Agreement exist and constituted a civil violation; the person is subject to and liable for any remedy authorized by this Title, which includes the assessment of the civil and monetary penalties identified in the Voluntary Compliance Agreement, correction of the violation, assessment of the costs incurred by the County to pursue code compliance and to Abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit; and

(3) Time Limits.

- (a) The Code Enforcement Official, or his or her designee, will prescribe a deadline for compliance as part of every Voluntary Compliance Agreement.
- (b) An extension of the deadline for compliance or a modification of the required corrective action may be granted by the Code Enforcement Official, his or her designee, if the person responsible for code compliance has shown due diligence or substantial progress in correcting the violation.

(4) Failure to Meet the Terms of the Voluntary Compliance Agreement.

If the Code Enforcement Division determines that terms of the Voluntary Compliance Agreement are not completely met by the prescribed time limit, the Code Enforcement Official, or his or her designee, will proceed with further code enforcement actions as stated in Subsection (2)(g-i) above. Penalties imposed when a Voluntary Compliance Agreement is not met accrue from the date the Code Enforcement Official takes action after the time limit listed in the Agreement expires.

According to YCC 21.03.040 (1) (a) a Voluntary Compliance Agreement may be entered into at any time after issuance of a written notice, a Civil Infraction, a Notice and Order or a Stop Work Order.

- (1) Authority.

Whenever the Code Enforcement Official, or his or her designee, determines that a code violation has occurred or is occurring, the Code Enforcement Division in appropriate cases may make reasonable efforts to secure voluntary compliance from the person responsible for code compliance. Upon contacting the person responsible for code compliance, the Code Enforcement Official may enter into a Voluntary Compliance Agreement as provided for in this section.

(a) Voluntary Compliance Agreement may be entered into at any time after issuance of a written notice, a Civil Infraction, a Notice and Order or a Stop Work Order.

The YCC does not say that a Voluntary Compliance Agreement may be entered into before issuance of notices and orders.

To the best of our knowledge Yakima County and Frysland Calf Ranch have not entered into a Voluntary Compliance Agreement and there has been no Notice of Violation.

Yakima County Code Enforcement can refer a case to legal counsel if a permittee does not comply with a final order. See YCC 21.03.060

21.03.060 Compliance with Notices and Orders.

After any order of the Code Enforcement Official, or other responsible official, made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. Any such person who fails to comply with any such order is in violation of this code and any of the enforcement actions provided for in this Title may apply. The Code Enforcement Official may refer the matter to legal counsel for appropriate action to obtain compliance.

A certificate may be filed with the Yakima County Auditor pursuant to YCC 21.03.070. This would be a necessary step prior to filing a lien against property.

21.03.070 Filing of Certificate of Violation with the County Auditor.

A certificate may be filed with the County Auditor. The certificate shall describe the nature of the violation, a property description, the taxation parcel number or numbers of the affected property, and a reference to the enforcement action case number. Upon compliance with the violation, a certificate of compliance shall be filed with the County Auditor stating that the notice and order have been satisfied and the enforcement action completed. The filing costs shall be paid by the owner or responsible party having control of the building, structure, premises, occupancy, equipment, or system that was the subject to all recording and related costs assessed by the County Auditor.

YCC 21.04.010 says that any person, firm or corporation failing to comply with a notice of violation or order to comply served in accordance with the provisions of YCC 16, 16B, 16C, 16D, or 19 shall be deemed guilty of a violation and subject to a citation or civil infraction as provided in this Title.

21.04.010 Prosecution of Violation.

(1) Any person, firm or corporation failing to comply with a notice of a violation or order to comply served in accordance with the provisions of Titles listed in Subsection 21.01.020 shall be deemed guilty of a violation and subject to a citation or civil infraction as provided in this Title.

(2) The owner, lessee, or tenant of any building, structure, premises, or part thereof, and, any architect, engineer, builder, contractor, employee, agent, or other person, who commits, authorizes, participates in, assists in, or who maintains after notice, a violation of this Title may each be found guilty of a separate offense and suffer the penalties provided in this Title.

(3) If there is not compliance with a notice of violation, the Code Enforcement Official, or his or her designee, shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. All County costs and expenses related to action taken by the County concerning such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

YCC 21.04.010 (3) says the Code Enforcement Officer shall institute appropriate enforcement proceedings when there is non-compliance with a corrective order.

(3) If there is not compliance with a notice of violation, the Code Enforcement Official, or his or her designee, shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. All County costs and expenses related to action taken by the County concerning such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Fryslan has escaped significant penalties because Yakima County has not issued a NOV. Those penalties are prescribed in YCC 21.04.030 Civil Infractions, YCC 21.04.040 Monetary Penalties, YCC 21.04.050 Judicial Enforcement, & YCC 21.04.060 Abatement.

We believe the following part of the code prohibits Fryslan Calf Ranching from obtaining a new CUP unless the violations are remediated and corrected. This part of the code does not allow a new permit to rescind the requirements in a previous permit.

21.04.020 Violation Penalties Associated with County Approvals.

(2) Denial of Future County Approvals.

In order to further the corrective purposes of this Title, the County will not issue a building or development proposal permit unless the requested permit remediates and corrects the violation or property conditions creating the violation with regard to the site or project for which the permit application is submitted. This includes all payments and/or any civil or monetary penalty imposed for the violation. Any building or development proposal permit that does not correct the violation will be denied.

The YCC provides for land use and investigation violation fees when a person takes actions such as construction without appropriate permits. See YCC 21.04.040 (2). Again, the fees accrue after issuance of a NOV.

21.04.040 Monetary Penalties.

The Code Enforcement Official, or his or her designee, may impose monetary penalties, in addition to a Civil Infraction, as set forth in section 21.04.030.

(1) A notice of violation may specify a monetary penalty that shall be imposed if the violation is not remedied or cured, or a compliance plan is not agreed to, within the time specified in the notice of violation. Such monetary penalties are in addition to fines or fees imposed by order of the court or by infraction or citation.

(2) Investigative and Land Use Violation Fees: Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an investigation fee established by the Building Official that shall be in addition to the required permit fees. In addition to the penalties described in this Chapter and YCC Title 13, land use violation fees will be assessed. The land use violation fee for land use violations is double the fee for any land use permits and applications necessary to remedy the violation.

Yakima County's failure to properly follow the YCC and issue an NOV absolves violators from requirements to pay and instead places the burden on taxpayers.

Finally, we point out that WA State Water laws apply. According to WA Ecology at [Groundwater permit exemption - Washington State Department of Ecology](#):

Groundwater permit exempt water use still subject to water law

Although groundwater permit-exempt uses do not require a water right permit, they are always subject to state water law. In some instances, we have had to regulate permit exempt water users when they interfere with older, “senior” water rights, including *instream flow rules*.

The *Streamflow Restoration law* adopted by the Legislature in 2018 also affects new domestic permit exempt water use in some parts of the state.

Respectfully submitted

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