Town of Yacolt
Council Meeting Agenda
Monday, August 05, 2019
7:00 PM
Town Hall

Call to Order

Flag Salute

Roll Call

Late Changes to the Agenda

Minutes of Previous Meeting(s)

1. Approve 7-15-19 Council Meeting minutes

Citizen Communication

Anyone requesting to speak to the Council regarding items not on the agenda may come forward at this time. Comments are limited to 3 minutes. Thank you.

Old Business

2. Approve Ordinance 574

3. Approve Sanctuary City Resolution # 586 Sent for legal review.

New Business

4. Senate House Bill 1406 review and discussion only

5. Review, discussion and comment on draft proclamations against I-1639

Public Works Department Report

Town Clerk's Report

Council's Comments

Mayor's Comments

Attorney's Comments

Approve to Pay Bills on Behalf of the Town

Executive Session

Adjourn

Town of Yacolt
Council Meeting Minutes
Monday, July 15, 2019
7:00 PM
Town Hall

Call to Order

Mayor Myers called meeting to order at 7:00 pm.

Flag Salute

Roll Call

PRESENT
Mayor Vince Myers
Council Member Amy Boget
Council Member Malita Moseley
Council Member Herb Noble
Council Member Rhonda Rowe-Tice
Public Works Director Bill Ross
Clerk Dawn Salisbury

Late Changes to the Agenda

1. New Business add Ordinance #575 2019 budget Amendment and add Executive Session to evaluate Council Candidates

   Old Business add item #4 Executive Session to evaluate Council Candidates, add item #5 swearing in of new Council Member, add #9 I-1639 Update, add item #10 Town Seal update.

   New Business #11 Public Hearing BYCX Museum/Maintenance barn and #12 Approve Ordinance #575 2019 Budget Amendment.

Minutes of Previous Meeting(s)

2. Approve 7-1-19 Draft Meeting Minutes with changes

   Motion made by Council Member Boget, Seconded by Council Member Moseley.
   Voting Yea: Council Member Boget, Council Member Moseley, Council Member Noble
   Voting Nay: Council Member Rowe-Tice

Citizen Communication

Anyone requesting to speak to the Council regarding items not on the agenda may come forward at this time. Comments are limited to 3 minutes. Thank you.

Kim Shealy- opening non-profit teacher co-op tutoring business. Mary Rowe- Questioned business license ordinance. Larry Blakemon- Hostile and unfounded screed unrelated to town business.

Old Business

3. Applicant Council Position 2 Joseph Ensley, Michelle Dawson and Danny Moseley interviews.

   Each applicant was interviewed.

Executive Session

4. To evaluate qualifications of candidates for appointment to Council Position 2. Action may or may not take place.

   Mayor Myers closed regular meeting at 7:47 pm and announced Executive Session to discuss Council Candidates for 15 minutes. Mayor Myers reconvened regular meeting at 8:02 pm.

5. Swearing in of Council Member

   Council Members voted. Joseph Ensley received 0 votes. Michelle Dawson received 2 votes. Danny Moseley received 2 votes. Mayor Myers voted to break the tie voting for Mr. Danny Moseley for council seat 2.

6. Approve Resolution 585 with changes amending Resolution 469 to update Town Facilities Use fees and Approve Mayor to sign Facilities Use Policy.

   Motion made by Council Member M. Moseley, Seconded by Council Member Boget.
   Voting Yea: Council Member Boget, Council Member D. Moseley, Council Member M. Moseley, Council Member Noble, Council Member Rowe-Tice

7. Approve Ordinance 574 updating Gambling Ordinance

   Tabled till August 5, 2019.

8. Follow up on Konica Minolta Proposal and quotes

   Council approved Mayor to sign lease agreement with Konica Minolta.

9. I-1639 Update

   Mayor Myers presented draft resolution to council for review.

10. Town Seal Update

    Artist of Town Seal submittal denied making changes to her submission. Will start digitizing process on art.

New Business

11. Public Hearing BYCX Museum/Maintenance Barn Conditional Use Permit

Mayor Myers closed regular meeting at 8:27 pm and opened public hearing on BYCX Museum/Maintenance Barn conditional use permit. Doug Auburg with BYCX spoke in favor of conditional use permit. No one spoke against project. Mayor Myers closed Public Hearing at 8:30 pm and re-opened regular meeting.

Approve BYCX Museum/Maintenance Barn Conditional Use Permit.

Motion made by Council Member Boget, Seconded by Council Member Rowe-Tice.
Voting Yea: Council Member Boget, Council Member D. Moseley, Council Member M. Moseley, Council Member Noble, Council Member Rowe-Tice

12. Approve Ordinance #575 2019 Budget Amendment

Motion made by Council Member Boget, Seconded by Council Member Moseley.
Voting Yea: Council Member Boget, Council Member M. Moseley, Council Member Noble
Voting Nay: Council Member Rowe-Tice
Voting Abstaining: Council Member D. Moseley

Public Works Department Report

Getting caught up from the 4th. Sink hole repair next couple of days.

Town Clerk's Report

Asked for Council Members help at National Day Out August 3rd from 11 am to 4 pm. Discussed needing theme for 2020 Rendezvous Days. Proposed to Council to move 4th of July parade to 6 pm to better utilize time between parade and fireworks for games and vendors. Clarified ADA rules for keeping sidewalks clear.

Mayor's Comments

Asked council to attend National Day Out to meet and visit with town residents.

Council's Comments

Council Member M. Moseley asked if disc golf holes could be moved to change up the course. Tags need to be updated at course also. Wondering how to get Town Events information out to the public.

Council Member Noble inquired on plaque for Skip Benge. Informed Council Member Noble the Town cannot pay for a plaque for a citizen. It is an unallowable expense of town funds. Asked again about speed bumps and contractor bond.

Council Member Rowe-Tice asked about Washington PFML deductions and additional microphones for council. Inquired about people living in commercial districts. Clerk Salisbury stated ordinances need updating to be enforceable. Asked for council members help in working on updating ordinances.

Attorney's Comments

None

Approve to Pay Bills on Behalf of the Town

Motion made by Council Member Boget, Seconded by Council Member Noble.
Voting Yea: Council Member Boget, Council Member D. Moseley, Council Member M. Moseley, Council Member Noble
Voting Abstaining: Council Member Rowe-Tice

001 General Fund	16,131.28		
101 Streets	7,655.61		
103 Cemetery	82.80		
403 Storm Water	1,669.56	Claims:	8,602.82
	25,539.25	Payroll:	16,936.43

Adjourn

Mayor Myers adjourned meeting at 9:10 pm.

_____ _____

Vince Myers, Mayor Dawn Salisbury, Clerk

Town of Yacolt
Request for Council Action

CONTACT INFORMATION FOR PERSON/GROUP/DEPARTMENT REQUESTING COUNCIL ACTION:

Name:	Dawn Salisbury	**Group Name:**	
Address:		**Phone: 360-686-3922**	
Email Address:	dawn.salisbury@townofyacolt.com	**Alt. Phone:**	

ITEM INFORMATION:

Item Title:	Gambling Ordinance
Proposed Meeting Date:	8/5/2019
Action Requested of Council:	Approve Ordinance #574 Gambling Taxation
Proposed Motion:	
Summary/ Background:	RCW 9.46 Gambling no longer includes a Class D license. Ordinances 303 and 451 pertaining to gambling are repealed and Ordinance 574 will take their place with updated and proper terminology according to the gambling RCW.
Staff Contact(s):	Dawn Salisbury

ORDINANCE NO. 574

AN ORDINANCE REPEALING ORDINANCES NUMBERS 303 AND 451 PROVIDING FOR THE TAXATION OF GAMBLING ACTIVITIES; ESTABLISHING THE RATE OF TAXATION; AND, IMPOSING PENALTIES FOR VIOLATION AS AUTHORIZED BY RCW 9.46.192.

BE IT ORDAINED, by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1. Repealer: That Yacolt Ordinances 303 and 451 are hereby repealed in their entireties.

Section 2. Adoption by Reference: The following Washington Statutes are adopted by reference as and for a portion of the Gambling Ordinance of this Town as if set forth in full herein:

RCW 9.46.150; RCW 9.46 170; RCW 9.46.185; RCW 9.46.190; RCW 9.46.195; RCW 9.46.196; RCW 9.46.198; RCW 9.46.231; RCW 9.46.240; and RCW 9.46.250

The amendment, addition or repeal by the Washington Legislature of any Section of any of the adopted Statutes set forth above shall be deemed to amend this Ordinance and the Statutes contained in this Ordinance which are adopted by reference, in conformity with the amendment, addition or repeal, and it shall not be necessary for the legislative authority of this Town to take any action with respect to such addition, amendment, or repeal.

Section 3. Definitions: For the purposes of this ordinance the words and terms used shall have the same meaning as each has under Chapter 9.46 RCW, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or the context in which they are used herein clearly indicates that they be given some other meaning.

Section 4. Taxes Imposed - Amounts: There is hereby levied a tax upon all persons, associations, and organizations who conduct or operate gambling activities, including bingo games and

raffles, amusement games, punch boards and pull-tabs, and social card games, within the Town of Yacolt, Washington, and who have been duly licensed by the Washington State Gambling Commission to conduct or operate such gambling activities, which tax shall be paid on the following gambling activities in the following respective amounts:

A. BINGO AND RAFFLE GAMES: Any bingo or raffle activity, a tax computed at the rate of five percent (5%) of the difference between the gross revenue received from the conduct of such activity and the amount paid for or as prizes in the conduct of such activity; Provided, however, that no tax shall be imposed under the authority of this ordinance on bingo or raffles when such activity or any combination thereof are conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.0205 and RCW 9.46.0277.

B. AMUSEMENT GAMES: Any amusement game, a tax computed at two percent (2%) of the gross revenue less the amount paid for as prizes; provided, however, that no tax shall be imposed under the authority of this ordinance on Amusement Games when such activity is conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.0201.

C. PUNCH BOARD OR PULL-TAB: Any punch board or pull-tab, a tax computed at the rate of three percent (3%) of the gross receipts from the conduct of such activity; Provided, however, that no tax shall be imposed under the authority of this Ordinance on punch boards or pull-tabs when such activities are conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.0273.

D. SOCIAL CARD GAMES: Any social card games as permitted, a tax computed at the rate of three percent (3%) of the gross receipts from the conduct of such activity; provided, however, that no tax shall be imposed under the authority of this Ordinance on social card games as permitted when such activities are conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.0282.

Section 5. Prohibited Gambling Activities: All gambling and gambling activities within the Town of Yacolt are prohibited with the following exceptions:

A. Those gambling activities taxed under Section 4 of this Ordinance, including bingo and raffles, amusement games, punch boards and pull-tabs.

B. All lawful gambling for which no license is required under Chapter 9.46 Revised Code of Washington.

C. Any other gambling which is lawful by law and which does not require a license under Chapter 9.46 Revised Code of Washington, including but not limited to the Washington State Lottery as defined in Chapter 67.70 Revised Code of Washington.

D. All non-house-banked card games as permitted by the Washington State Gambling Commission.

Section 6. Tax to Be Computed and Paid Quarterly. Exceptions: Each of the various taxes imposed by this ordinance shall be computed on the basis of activity during each calendar quarter year, and shall be due and payable in quarterly installments, and the remittance, together with return forms, shall be made to the Town of Yacolt, Washington, on or before the last day of the month next succeeding the quarterly period in which the tax is accrued: That is on January 31, April 30, July 31, and October 31, of each year; Provided, that the following exceptions to this payment schedule shall be allowed or required:

A. Whenever any person, association, or organization taxable hereunder, conducting or operating a taxable activity on a regular basis discontinues operation of that taxable activity for a period of more than four (4) consecutive weeks, or quits business, sells out, or otherwise disposes of the business, or terminates the business, any tax due shall become due and payable, and such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.

B. Whenever it appears to the Town of Yacolt that the collection of taxes from any person, association, or organization may be in jeopardy, the Town of Yacolt, after not less than ten (10) days' notice to the taxpayer, may require the taxpayer to remit taxes and returns at shorter intervals than quarterly or annually, as the Town of Yacolt shall deem appropriate under the circumstances.

C. Whenever reports required by the Washington State Gambling Commission under the provisions of RCW 9.46 are required on less than a quarterly basis, any person, association, or organization taxable hereunder shall report to the Town of Yacolt on the same basis.

Section 7. Administration and Collection of Tax: Administration and collection of the various taxes imposed herein shall be the responsibility of the Yacolt Town Clerk, under the supervision of the Mayor and the Town Council. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the Town. The taxpayer shall be required to swear, affirm and certify under penalty of perjury under the laws of the State of Washington

that the information given in the return is true, accurate, and complete. The Town Clerk is authorized, but not required, to mail to taxpayers the necessary return forms. Failure of the taxpayer to receive such a form shall not excuse a taxpayer from making the return and timely paying all taxes due. The Town Clerk shall make forms available to the public in reasonable numbers at Town Hall during regular business hours.

In addition to the return form, a copy of the quarterly report to the Washington State Gambling Taxpayer's Commission required by WAC Chapter 230 for the period in which the tax accrued shall accompany remittance of the tax amount due.

Section 8. Method of Payment: Taxes payable hereunder shall be remitted to the Town of Yacolt on or before the time required, by bank draft, certified check, cashier's check, personal check, money order, credit card, or in cash. If payment is made by draft or check, the tax shall not be deemed paid until the draft or check is honored in the usual course of business, nor shall the acceptance of any sum by the Town of Yacolt be an a quittance or discharge of the tax unless the amount paid is the full amount due. The return and a copy of the quarterly report to the Washington State Gambling Commission shall be filed in the office of the Town of Yacolt after notation by the office upon the return of the amount actually received from the taxpayer.

Section 9. Failure to Make Timely Payments of Tax or Fee: If full payment of any tax or fee due under this ordinance is not received by the Town of Yacolt on or before the date due, there shall be added to the amount due a penalty fee as follows:

A. 1 - 10 days late: 5% of tax due

B. 11 - 20 days late: 10% of tax due

C. 21 - 31 days late: 15% of tax due

D. 32 - 60 days late: 20% of tax due

but in no event shall the penalty amount be less than Twenty-Five Dollars ($25). In addition to this penalty, the Town of Yacolt may charge the taxpayer interest of one percent (1%) of all taxes and fees due for each thirty (30) day period, or portion thereof; that said amounts are past due.

Failure to make payment in full of all tax amounts, penalties and interest, within sixty (60) days following the day the tax amount initially became due shall be both a civil and criminal violation of this section.

Section 10. Notice of Intention to Engage in Activity to be Filed: In order that the Town of Yacolt may identify those persons who are subject to taxation under this ordinance, each person, association, or organization shall file with the Town of Yacolt a sworn "Declaration of Intent" to conduct an activity taxable under this ordinance upon a form to be prescribed by the Town of Yacolt together with a copy of the license issued therefor by the Washington State Gambling Commission. The filing shall be made not later than five days prior to conducting or operating the taxable activity or twenty days after the effective date of this ordinance if the activity is being conducted prior to its adoption. No fee shall be charged for such filing, which is not for the purpose of regulation of this activity but for the purposes of administration of this taxing ordinance only. Failure to timely file shall not excuse any person, association, or organization from any tax liability.

Section 11. Records Required: Each person, association, or organization engaging in an activity taxable under this ordinance shall maintain records respecting that activity which truly, completely, and accurately disclose all information necessary to determine the taxpayer's tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three (3) years. In addition, all information and items required by the Washington State Gambling Commission under WAC Chapter 230, and the United States Internal Revenue Service respecting taxation, shall be kept and maintained for the periods required by those agencies.

The premises and paraphernalia, and all books, records and other items required to be kept and maintained under this section and under RCW 9.46, and any person, association, or organization receiving profits therefrom or having any interest therein, shall be subject to and immediately made available for, inspection and audit at any reasonable time, with or without notice, upon demand by the Town of Yacolt or its designee for the purpose of determining compliance or non-compliance with this ordinance.

A reasonable time for the purposes of this section shall be:

A. If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or

B. If the items or records to be inspected or audited are not located upon a premises set out in subsection A above, then any time between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Where the taxpayer does not keep all of the books, records, or items required to be kept or maintained under this section in this jurisdiction, the taxpayer shall either:

A. Produce all of the required books, records, or items within the Town of Yacolt for such inspection within five (5) days following a request of the Town of Yacolt to do so; or

B. Bear the actual cost of the inspection by the Town of Yacolt or its designee, at the location at which such books, records or items are located, provided that a taxpayer choosing to bear these costs shall pay in advance to the Town of Yacolt the estimated costs thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals, and incidental expenses. The actual amount due, or to be refunded, for expenses shall be determined following said examination of the books, records or items required to be kept or maintained under this Section.

A taxpayer who fails, neglects or refuses to produce such books, records and other items, either within or without this jurisdiction, in addition to being subject to other civil and criminal penalties provided by this ordinance or otherwise, shall be subject to a jeopardy tax assessment by the Town Clerk.

Said jeopardy tax assessment shall be deemed prima facie correct and shall be the amount of fee or tax owing to the Town of Yacolt by the taxpayer unless the taxpayer can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the Town Clerk of the amount of tax so determined by jeopardy tax assessment, together with any penalty and/or interest, and the total of such amounts shall thereupon become immediately due and payable.

Section 12. Overpayment or Underpayment of Tax: If, upon application by a taxpayer for a refund or an audit of his records, or upon any examination of the returns or records by the Town of Yacolt, it is determined that within five (5) years immediately preceding receipt of the application from the taxpayer for a refund, or an audit, or in the absence of such application, within five (5) years immediately preceding the commencement by the Town Clerk/Treasurer of such examination:

A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the Town within such period of five (5) years shall be credited to the taxpayer's account or shall be credited to the taxpayer at the taxpayer's option. No refund or credit shall be allowed with respect to any excess amounts paid more than five (5) years before the date of such application or examination.

B. A tax or other fee has been paid which is less than that properly due, or no tax or other fee has been paid, the Town Clerk shall mail a statement to the taxpayer showing the balance due, including the tax amount or penalty assessment and fees, and it shall be a separate, additional violation of the provisions of this ordinance, both civil and criminal, if the taxpayer fails to make payment in full within ten (10) calendar days of such mailing.

Section 13. Failure to Make Return: If any taxpayer fails, neglects or refuses to make and file his return as and when required under this ordinance, the Town Clerk is authorized to determine the amount of tax payable, together with any penalty and/or interest assessed under the provisions of this ordinance, and shall notify the taxpayer by mail of the amount so determined, which amount shall thereupon become immediately due and payable.

Section 14. Tax Additional to Others: The tax here in levied shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of the Town of Yacolt, except as herein otherwise expressly provided.

Section 15. Taxes, Penalties and Fees Constitute Debt to Municipality: Any tax due and unpaid under this ordinance and all penalties or interest shall constitute a debt to the Town of Yacolt, a municipality, and may be collected by court proceedings the same as any other debt in like amount, but shall be in addition to all other existing remedies.

Section 16. Limitations on Right of Recovery: The right of recovery by the Town from the taxpayer for any tax provided here-under shall be outlawed after the expiration of five (5) calendar years from the date said tax became due. The right of recovery against the Town because of overpayment of tax by any taxpayer shall be outlawed after the expiration of five (5) calendar years from the date such payment was made.

Section 17. Violation - Penalties: Except as otherwise provided within this ordinance, any person, association or organization violating or failing to comply with any of the provisions of this ordinance, upon conviction thereof, is guilty of a misdemeanor, and any person, association or organization so convicted shall be punished by a fine not to exceed five hundred dollars

($500.00), or by imprisonment in the county jail not to exceed ninety (90) days, or both such fine and imprisonment.

Any taxpayer who engages in, or carries on, any gambling activity subject to a tax hereunder, without having complied with the provisions of this ordinance or in violation of any of the provisions of this ordinance, shall be guilty of a violation of this ordinance for each day or portion of such day during which the gambling activity is carried on.

Section 18. Revenue: Any revenue collected from the taxes imposed hereunder shall be used primarily by the Town of Yacolt for the purpose of the enforcement of the provisions of chapter 9.46 RCW, the rules and regulations of the Washington State Gambling Commission, and this ordinance.

Section 19. Severability: If any provisions or section of this ordinance shall be held void or unconstitutional, all other parts, provisions, and sections not expressly so held to be void or unconstitutional shall continue in full force and effect.

APPROVED AND ADOPTED This 5th day of August, 2019, following publication of the following summary, according to law.

> "Town of Yacolt – Summary of Ordinance # 574
>
> The Town Council of the Town of Yacolt adopted Ordinance #574 At its regularly scheduled Town Council meeting held on August 5, 2019. The content of the Ordinance is summarized in its title as follows:
>
> AN ORDINANCE REPEALING ORDINANCES NUMBERS 303 AND 451 PROVIDING FOR THE TAXATION OF GAMBLING ACTIVITIES; ESTABLISHING THE RATE OF TAXATION; AND, IMPOSING PENALTIES FOR VIOLATION AS AUTHORIZED BY RCW 9.46.192.
>
> A copy of the full text of the Ordinance will be mailed upon request to the undersigned at the Town of Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675: (360) 686-3922.
>
> Published this ___ Day of _____, 2019.
>
> Dawn Salisbury, Town Clerk"

PASSED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this ____ day of _____, ____.

TOWN OF YACOLT

_____

Vince Myers, Mayor

Attest:

_____

Dawn Salisbury, Clerk

Ayes: _____

Nays: _____

Absent: _____

Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance # 574 of the Town of Yacolt, Washington, entitled AN ORDINANCE REPEALING ORDINANCES NUMBERS 303 AND 451 PROVIDING FOR THE TAXATION OF GAMBLING ACTIVITIES; ESTABLISHING THE RATE OF TAXATION; AND, IMPOSING PENALTIES FOR VIOLATION AS AUTHORIZED BY RCW 9.46.192, as approved according to the law by the Town Council on the date therein mentioned. The Ordinance has been published or posted according to law.

Attest:

_____

Dawn Salisbury, Clerk

Published: _____

Effective Date: _____

Ordinance Number: _____

RESOLUTION #586

TOWN OF YACOLT RESOLUTION IN SUPPORT OF THE RIGHT TO KEEP AND BEAR ARMS.

WHEREAS, the 2nd Amendment to the United States Constitution guarantees, "...the right of the people to keep and bear Arms, shall not be infringed." and Article 6, Section 2 declares, "This Constitution, and the laws...made in pursuance thereof; shall be the Supreme Law of the Land..."; and

WHEREAS, Article I, Section 2, of the Washington State Constitution declares "The Constitution of the United States is the supreme law of the land." and

WHEREAS, Article I, Section 24, of the Washington State Constitution further guarantees "The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain or employ an armed body of men.; and

WHEREAS, Article 1, Section 29, of the Washington State Constitution "declares the provisions of this constitution are mandatory, unless by express words they are declared to be otherwise." and

WHEREAS, Article I, Section 32, of the Washington State Constitution declares, "A frequent recurrence to fundamental principles is essential to the security of individual right and perpetuity of free government." and

WHEREAS, the United States Supreme Court has declared "...a law repugnant to the Constitution is void..." (see Marbury v. Madison); and, "An unconstitutional act is not law; it confers no rights; it imposes no duties; it is in legal contemplation, as inoperative as though it had never been passed." (see Norton v. Shelby County); and

WHEREAS, the United States Supreme Court has declared," The Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home." (See District of Columbia v Heller); and

WHEREAS, a core principle of the Town of Yacolt, Washington is not to infringe on the Constitutionally guaranteed right to keep and bear arms; and furthermore, in its exercise, derive economic benefit and enjoyment in all safe forms of manufacture, commerce, recreation, hunting and shooting; and

WHEREAS, the myriad of measures imposed by government that criminalize lawful gun ownership do, in their substance and effect, infringe upon and impair the Constitutionally guaranteed right to keep and bear arms as exercised by law abiding citizens, inhibit lawful self-defense, and do nothing to increase security in our schools and homes, nor do they

address gang violence; and

WHEREAS, the Council of the Town of Yacolt are elected to represent the Citizens within their respective jurisdictions and are duly sworn by their Oaths of Office to support and defend the United States and Washington State Constitutions.

NOW, THEREFORE, BE IT RESOLVED: the Town Council of the Town of Yacolt and its citizens call upon Clark County Councilors and Sheriff to declare, by official public statement, within their respective jurisdictions to be legally required to adhere to and preserve the inalienable right to keep and bear arms as enumerated in the United States and Washington State Constitutions.

THEREFORE BE IT FURTHER RESOLVED, the citizens of the Town of Yacolt call upon the Town of Yacolt Council members within their respective jurisdictions to neither authorize nor support the enforcement of any act, order, rule, law, or regulation repugnant to the legally binding, Constitutionally guaranteed right to keep and bear arms exercised by law-abiding citizens of Yacolt, Washington, enacted after November 1st, 2018.

Resolved this 5th day of August 2019, in Yacolt, Washington by the Town Council of the Town of Yacolt.

_____

Vince Myers, Mayor

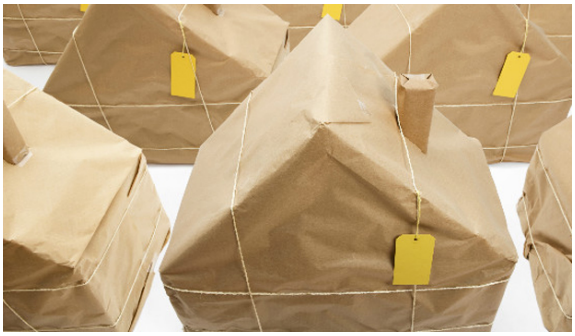
Attest:

_____

Dawn Salisbury, Clerk

SHB 1406: Understanding the Affordable Housing Sales Tax Credit

July 17, 2019 by Toni Nelson
Category: Revenues , Housing , New Legislation and Regulations



Editor's note: This blog post was updated July 24, 2019 to provide additional examples of resolutions related to SHB 1406 – see the end of this article for more information.

The 2019 legislative session produced a plethora of bills, but SHB 1406 has generated significant buzz as it will provide a new affordable housing revenue stream for those counties, cities, and towns that choose to participate. This sales tax option is actually a credit against the state sales tax rate of 6.5%, so it will not increase the tax rate for consumers. However, cities, towns, and counties have a limited time to take advantage of this option and must act rather quickly if they wish to participate.

In order to understand the foundation of this bill, it's important to understand what is considered a participating and non-participating city or county. A "participating" city or county is one that chooses to impose the affordable housing sales tax credit provided in SHB 1406 and completes the required steps for adoption within the next 12 months, while a "nonparticipating" city or county is one that chooses not to implement the affordable housing sales tax credit.

In this blog we discuss this complicated piece of legislation and some of the key decisions that eligible local governments will need to make within the next few months.

How Can This Revenue Be Used?

The intent of the legislation is to encourage local government investments in affordable and supportive housing, and as such, the funds will be considered a restricted revenue subject to reporting requirements and audit review for compliance. The use of this sales tax partially depends upon the size of your jurisdiction:

For counties over 400,000 population and cities over 100,000 population: The funds may only be used for (a) acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under RCW 71.24.385 (behavioral health organizations); **OR** (b) operations and maintenance costs of new units of affordable or supportive housing.

For counties under 400,000 population and cities under 100,000 population: The funds may be used for the same purposes listed above, but they may also be used to provide rental assistance to tenants that are at or below 60% of the median income of the county or city that is imposing the tax.

For any city or county, they may finance loans or grants to nonprofit organization or public housing authorities to carry out the purposes of the bill and may pledge the tax proceeds from SHB 1406 for repayment of bonds in accordance with debt limitations imposed by the state constitution or statute.

Additionally, any participating city or county may enter into an interlocal agreement with other cities, counties, and/or housing authorities to pool and allocate the tax revenues received under SHB 1406 to fulfill the intent of the legislation.

How Much Revenue Will We Receive?

The answer to this question depends on whether your entity has a "qualifying local tax" (see below), the local economy, and the revenue cap included in SHB 1406. Participating jurisdictions will receive revenues for 20 years, and the amount that you receive annually will be equivalent to either 0.0073% or 0.0146% of taxable retail sales in your jurisdiction.

For participating counties

Counties do not need a "qualifying local tax" and will automatically receive the maximum 0.0146% rate within the unincorporated areas. Within the boundaries of each city or town, you will receive 0.0146%, minus the rate being received by the city/town. Here are the variables:

- If the city chooses not to participate but the county does participate, the county will receive the full 0.0146% within the city boundaries.
- If a city elects to participate but does not have a "qualifying local tax" (see below), the city will receive the 0.0073% "half share" and the county will also receive a 0.0073% half share within the city boundaries.
- If a city elects to participate and imposes a "qualifying local tax" by the deadline, the city will receive the full 0.0146% share and the county will not receive any revenues within the city boundaries.

As the legislation is currently written, if the county elects not to participate, cities located within said county that have not enacted a qualifying local tax will not receive SHB 1406 revenues after the first year.

For participating cities

The rate your city receive depends on whether it enacts a local qualifying tax (see below) prior to the deadline of July 27, 2020, as well as whether or not your county participates.

- For cities that impose a qualifying local tax by the deadline, you will receive the maximum 0.0146% rate, regardless of whether your county participates.
- For cities that do not have a qualifying local tax, you will receive the 0.0073% "half share," but *only if* your county also elects to participate.

> If your county declares it will not participate or does not adopt the required resolution of intent by the end of January 2020, you will receive the full 0.0146% through July 27, 2020, but after that you will not receive any further revenues. In discussions with both Association of Washington Cities (AWC) and the Department of Revenue it is believed that this is due to a drafting error in the bill. AWC does not anticipate this scenario but asks that you let them know if your city finds itself in this situation!

SHB 1406 sets a cap on the maximum sales tax revenues to be credited to local government within any state fiscal year (July 1 to June 30). The cap will be calculated based upon the taxable retail sales during the state's 2019 fiscal year (July 1, 2018 — June 30, 2019). Just like the state shared revenue cycle, distributions will start July 1, and the state will cease distribution until the beginning of the next fiscal cycle if at any time during the fiscal period your distributions meet the cap.

Last but not least it's important to remember that retail sales can fluctuate from year to year depending upon a number of economic factors, so your revenues being generated from this sales tax credit will fluctuate as well. The Department of Revenue (DOR) website provides Local Retail Sales for calendar year 2018 that can be used to forecast your sales tax credit revenues. Additionally, we have developed a worksheet for your revenue forecasting that is based upon 2018 taxable sales with projections for both the 0.0073% and 0.0146% tax credit options.

How Do We Impose This New Tax Option?

To receive the affordable housing sales tax credit, you must:

- **Pass a resolution of intent by January 27, 2020** that indicates intention to impose the sales tax credit at the maximum capacity by a simple majority vote of the legislative body. *This is the single most important step in being able to receive this sales tax credit option.* If this deadline is missed, there are no other opportunities to access the tax. Here is a sample resolution of intent that has been prepared by Pacifica Law Group for the Association of Washington Cities (AWC) that will assist you in this process. *(Editor's note: Also see the resolution adopted by the City of Vancouver, which is provided at the end of this article.)*
- **Adopt legislation to authorize by July 27, 2020** to impose the maximum capacity of the affordable sales tax credit. This step must be completed in order to continue to access this sales tax credit whether you decide to impose a qualifying local tax or not.

What Is a Qualifying Local Tax?

A "qualifying local tax" (QLT) is a local property or sales tax that a city has imposed, separately from SHB 1406, to address affordable housing or related issues. This provision within the bill *only applies to cities and towns*, and it allows them to double the sales tax credit.

The QLT options are:

- An affordable housing levy (RCW 84.52.105);
- A sales and use tax for affordable housing (RCW 82.14.530);
- A levy lid lift (RCW 84.55.050) that is restricted solely to affordable housing; or
- A mental health and chemical dependency sales tax (RCW 82.14.460), which is only authorized by statute for those cities of at least 30,000 population located within Pierce County.

According to our data, there are currently only six cities that have implemented at least one of these qualifying local taxes: Bellingham, Ellensburg, Olympia, Seattle, Tacoma, and Vancouver. *Editor's note: Port Angeles has also placed a qualifying local tax on the ballot for November 2019 – see the resolution at the end of this article which also provides a good analysis of election timing and costs.*

All of the qualifying local taxes require voter approval with a simple majority vote (with the exception of the mental health and chemical dependency sales tax) and may be presented at any special, primary, or general election. (For more detailed information on any of these qualifying local taxes, refer to our Revenue Guide for Cities and Towns.)

Deciding to present a qualifying local tax before the voters in order to gain the full tax credit will require some timing considerations, as the legislation requires that the qualifying local tax must be "instated" (which DOR is interpreting to mean "approved by voters") within 12 months of the effective date of SHB 1406. This deadline is July 27, 2020. The deadline for placement on the general election ballot is fast approaching (August 6), and the only other elections before the July 2020 deadline are the special elections in February and April. (See our Key Deadlines for voted sales and property taxes in the recently updated Revenue Guides for Cities/Towns and Counties).

When Will We Start to Receive Revenues from SHB 1406?

The Department of Revenue (DOR) typically requires a 75-day notice for sales tax rate changes, but this is not a new sales tax and therefore will only require a 30-day wait period. The credit will take effect on the first day of the month following the 30-day period (RCW 82.14.055(2)). For example, if you adopt the resolution of intent and then the enabling legislation (ordinance/resolution) during August 2019, the tax will take effect on October 1. The sales tax revenues from October will be remitted by retailers to DOR by the 25th of the following month (November), and you will receive your first distribution of this tax credit on your end-of-month December disbursement from the State Treasurer's office. *Editor's note: In this example, the original article incorrectly stated that the revenues would be distributed at the end of November.*

For cities that have a qualifying local tax in place, you will receive the full credit of 0.0146% as soon as you adopt the enacting ordinance. For all other cities and towns that have adopted the enacting ordinance, you will collect a tax credit of 0.0073% until your ballot measure for a qualifying local tax has passed.

This piece of legislation is complex and a bit confusing. We have worked closely with the DOR and the AWC to bring you as much information as possible to assist with your decisions to take the first step in the process — which is to pass a resolution of intent. Additionally AWC has prepared an implementation guide to help in your decision-making process, and we (MRSC) are ready to answer any further questions that you may have. Please do not hesitate to send me an email or give me call.

Sample Resolutions

Editor's note: In addition to the Pacifica Law Group sample resolution of intent provided by AWC, we received a couple useful resolutions regarding SHB 1406 in the days after the initial publication of this article:

- **Vancouver** Resolution No. M-4026 (2019) – Resolution of intent. Includes staff report; note that Vancouver qualifies for the maximum 0.0146% because it already has a qualifying local tax.
- **Port Angeles** Resolution No. 14-19 (2019) – Submitting 0.1% affordable housing sales tax (RCW 82.14.530) to voters as a qualifying local tax under SHB 1406. Includes analysis of election timing and costs, concluding it is much less expensive to submit a measure at the November 2019 general election (filing deadline: August 6) than at the February or April special election.

MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one Ask MRSC service to get answers to legal, policy, or financial questions.

About Toni Nelson

Toni has over 24 years of experience with Local Government finance and budgeting. Toni's area of expertise include "Cash Basis" accounting and reporting, budgeting, audit prep and the financial issues impacting small local government.

VIEW ALL POSTS BY TONI NELSON

Implementing HB 1406

2019

Don't miss out on up to 20 years of shared revenue for affordable housing

In the 2019 legislative session, the state approved a local revenue sharing program for local governments by providing up to a 0.0146% local sales and use tax credited against the state sales tax for housing investments, available in increments of 0.0073%, depending on the imposition of other local taxes and whether your county also takes advantage. The tax credit is in place for up to 20 years and can be used for acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable or supportive housing facilities; and, for smaller cities, rental assistance. The funding must be spent on projects that serve persons whose income is at or below sixty percent of the area median income. Cities can also issue bonds to finance the authorized projects.

This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer. There are tight timelines that must be met to access this funding source – the first is January 31, 2020 to pass a resolution of intent. The tax ordinance must then be adopted by July 27, 2020 to qualify for a credit.

The following information is intended to assist your city in evaluating its options and timelines. It is not intended as legal advice. Check with your city's legal counsel and/or bond counsel for specific questions on project uses and deadlines for implementation.

Deadlines to participate:

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020

Eligibility to receive shared revenues

- The state is splitting the shared resources between cities and counties. However, cities can receive both shares if they have adopted a "qualifying local tax" by July 31, 2020. Qualifying taxes are detailed below. Cities who are levying a "qualifying local tax" by July 28, 2019, the effective date of the new law, will receive both shares immediately once they impose the new sales tax credit.
- If a city does not implement a qualifying local tax by the deadline, they can still participate in the program if they meet the other deadlines but will be eligible for a lower credit rate.
- A city can adopt the sales tax credit before designating how the funds will be used once collected.

Qualifying local taxes

The following are considered "qualifying local taxes" and, if levied, give the city access to both shares of the tax credit (i.e. 0.0146% rate instead of the single share rate of 0.0073%):

- Affordable housing levy (property tax) under RCW 84.52.105
- Sales and use tax for housing and related services under RCW 82.14.530. The city must have adopted at least half of the authorized maximum rate of 0.001%.
- Sales tax for chemical dependency and mental health (optional .1 MIDD) under RCW 82.14.460
- Levy (property tax) authorized under RCW 84.55.050, if used solely for affordable housing

Think of the "qualifying local tax" as a multiplier or "doubler." It gives the city access to double the tax credit even when the county chooses to participate in the program.

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Six steps to affordable housing revenue

1 Is your city interested in accessing additional funding to support affordable housing for the next 20 years?

- **Yes** → **2**
- **No** → No action required.
- **Maybe. What can we spend the money on?** → All projects must serve households with incomes at or below 60% Area Median Income (AMI). Is the city's population more than 100,000?
  - **Yes** →
    - Acquiring, rehabing, or constructing affordable housing. Includes new units within an existing structure or supportive housing facilities under RCW 71.24.385. Consider bonding, land acquisition, direct capital investment down payment assistance, and rehabilitation of single-family homes owned by individuals who meet the 60% AMI qualification.

    OR

    - Funding the operations and maintenance costs of new units of affordable or supportive housing.
  - **No** → All of the options for cities over 100,000, plus rental assistance to tenants.

2 Does your city levy a "qualifying local tax"?

- **What's a "qualifying local tax"?**
  1. Affordable housing levy (RCW 84.52.105)

     OR

  2. Sales and use tax for housing and related services (RCW 82.14.530). Must impose at lease half of the authorized rate.

     OR

  3. Sales tax for chemical dependency and mental health services or therapeutic courts (RCW 82.14.460).

     OR

  4. Levy (property tax) under RCW 84.55.050, if used solely for affordable housing.
- **Yes** → **3**
- **No** → Can your city adopt a "qualifying local tax" by July 31, 2020, including ballot measure?
  - **Yes** → **3**
  - **No** → Your city is still eligible to participate in the program. Go to Step 3 to continue.

3 The law requires a resolution of intent to impose the tax credit. Can your city **adopt a resolution of intent** between July 28, 2019 and January 31, 2020?

- **Yes** → **4**
- **No** → Unfortunately, your city is no longer eligible to participate in the program.

4 Great! Next, your city must **adopt an ordinance** by July 27, 2020 to levy the maximum tax under **HB 1406**. Did you or will you?

- **Yes** → **5**
- **No** → Unfortunately, your city is no longer eligible to participate in the program.

5 Great! Now let's find out what your maximum tax rate is. Did your city instate a "**qualifying local tax**" by the deadline – July 31, 2020? A "qualifying local tax" is not required but can increase your tax credit.

- **Yes** → **6**
- **No** → Did your county levy its share of the tax credit?
  - **Yes** → Your tax credit rate is 0.0073% starting on the date the tax credit is levied. (See **Important Dates**.)
  - **No** → If the county declared they will not levy the tax or have not adopted a resolution of intent by February 1, 2020, your city's tax rate will be 0.0146%. (See **Important Dates**.)

6 Was your city levying the "qualifying local tax" before you instated the tax credit under **HB 1406**?

- **Yes** → Your tax credit rate is 0.0146% starting on the date the tax credit is levied. (See **Important Dates**.)
- **No** → Until July 1, 2020, your tax credit rate is 0.0073% starting on the date the tax credit is levied. (See **Important Dates**.) After July 1, 2020, your tax credit rate is 0.0146%.

Important dates:

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020
- See also **Additional timelines to keep in mind** on the back

AWC ASSOCIATION OF WASHINGTON CITIES

Tax credit rate examples

Max tax credit rate under HB 1406	City with qualifying local tax	City without qualifying local tax	City doesn't levy a tax credit, county does participate	County doesn't participate, city participates but doesn't have a qualifying tax.*
City	0.0146%	0.0073%	0.0%	July 2020: 0.0%
County	0.0%	0.0073%	0.0146%	0.0%

**We believe that this was an error in bill drafting. Please let us know if you are in this situation. We can work to address it in future legislative sessions.*

Eligible uses of the funds:

1. Projects must serve those at or below 60% AMI.
2. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services. In addition to investing in traditional subsidized housing projects, this authority could potentially be used to provide for land acquisition, down payment assistance, and home repair so long as recipients meet the income guidelines.
3. Funding the operations and maintenance costs of new units of affordable or supportive housing.
4. For cities with a population under 100,000, the funds can also be used for rental assistance to tenants.

Additional timelines to keep in mind:

1. Department of Revenue (DOR) requires 30-days-notice of adoption of sales tax credits. The credit will then take effect on the first day of the month following the 30-day period.
2. If your city is adopting a "qualifying local tax", DOR requires 75-days-notice of adoption of sales tax increases. Local sales tax increases may only take effect on the first day of the first, second, or third quarter – not the fourth (April 1, July 1, or October 1).
3. If your city is adopting a "qualifying local tax" remember to factor in the ballot measure process into the timeline, as these must be approved by the voters.
4. If you are intending to bond the revenues for a project under this authority, check with your legal counsel and bond counsel about other deadlines that may apply to your city.

Frequently asked questions:

1. **This program sounds very familiar. Didn't a local option, affordable housing sales tax law pass a few years ago?** Yes, but the new law has important differences. The Legislature passed HB 2263 in 2015 that authorized cities and towns to levy up to a 0.1% sales tax for affordable housing—but, importantly, only after voter approval. This sales tax levy is considered a "qualifying local tax" under HB 1406. Another important distinction is that the affordable housing sales tax from 2015 is an additional tax on the consumer, and not a credit on an existing state-imposed tax.
2. **Do we have to levy a "qualifying local tax" to participate?** No. Your city is still eligible to participate in the program, but your tax credit rate will depend on whether the county participates in the program. See *Tax credit rate examples* chart to the left.
3. **Do we only have access to the program if the county declines to participate?** No. A city can participate, and receive funds, even if the county participates. Unfortunately, if your city does not impose a "qualifying local tax" by the deadline and your county declines to participate, then you will not have access to funds after the first year, due to a drafting error in the bill. We don't anticipate this scenario to occur, but please let us know if you find yourself in that situation. We will work with the Legislature to address it if this proves problematic. In all cases you must meet the program deadlines to participate. See *Deadlines to participate*.
4. **Does it make a difference at all if our county participates?** Only if you have not adopted a "qualifying local tax." If you have adopted a "qualifying local tax" you can access the higher credit rate regardless of county participation. If you don't have a "qualifying local tax" then you can only access the higher rate if the county does not participate.
5. **How is "rental assistance" defined? Does that include rent vouchers?** The term "rental assistance" is not defined in the chapter 82.14 RCW; however, both federal and state housing programs use the term "rental assistance" to mean providing rent, security deposits, or utility payment assistance to tenants.
6. **Can we pool our revenue with another entity? Can we issue bonds or use the money to repay bonds?** Yes! Cities can enter into an interlocal agreement with other local governments or a public housing authority to pool tax receipts, pledge tax collections to bonds, allocating collected taxes to authorized affordable housing expenditures, or other agreements authorized under chapter 39.34 RCW. Cities may also use the tax credit revenue to issue or repay bonds in order to carry out the projects authorized under the new law.
7. **Is the amount of tax credit we receive limited only by the amount of sales tax collected per year?** No. The maximum amount will be based on state fiscal year 2019 sales.
8. **Does the tax credit program expire?** Yes, the tax expires 20 years after the date on which the tax is first levied.

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06/20/19

PROCLAMATION FOR THE TOWN OF YACOLT

Proclamation to oppose the implementation of Washington State Initiative I-1639 and subsequent amendment to RCW 9.41.090, 9.41.092, 9.41.094, 9.41.097, 9.41.0975, 9.41.110, 9.41.113, 9.41.124, 9.41.240, 9.41.129, and 9.41.010; adding new sections to chapter 9.41 RCW; creating new sections; prescribing penalties; and providing effective dates, gun control, any trailer bill, or any similar thereto which restricts the individual's rights as stated herein.	)	**Proclamation No. XX-XXXXX**

We, the undersigned, in order to preserve the blessings of liberty to ourselves and our posterity, recognize that it is our duty to be ever mindful that our civil government exercises its just and lawful authority subject to the moral law of almighty God and that all powers granted to civil government are derived through the people and are for the sole purpose of protecting and defending the unalienable natural rights which have been given to the people by God, and affirmed by our Constitution, as part of His Created Order,

And further recognize that it is the natural tendency of civil government to expand beyond the limits of its rightful charter and to usurp authority and power which have not been authorized to it by God nor delegated to it by the consent of the governed, therefore, it is the duty of the people, through the agency of the lesser magistrate (local elected officials and sheriffs), to challenge the civil government when and where it exceeds its authority and to remind overstepping officials thereof from whence their just powers devolve and limits to which they may extend.

And further recognizing that we, as elected officials, bound by sworn oath to uphold and defend the Constitution of these states-united, and the State of Washington which constrains and limits the authority of the civil government;

WHEREAS, Article 1 Section 1 of the Washington Declaration of Rights affirms, All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individuals rights; and

WHEREAS, Article 1 Section 2 of the Washington Declaration of Rights affirms that, The Constitution of the United States is the supreme law of the land; and

WHEREAS, Article 1 Section 30 of the Washington Declaration of Rights affirms, The enumeration in this Constitution of certain rights shall not be construed to deny others retained by the people; and

Now, by the authority granted us by the people of the Town of Yacolt, Washington to stand and defend their God-given rights and liberties, which are guaranteed by the United States and Washington Constitutions, we hereby declare:

SECOND AMENDMENT PRESERVATION PROCLAMATION

to declare the Town of Yacolt, Washington a Second Amendment Sanctuary

WHEREAS, the Second Amendment to the United States Constitution protects the unalienable and individual right of the people to keep and bear arms; and

WHEREAS, the Second Amendment was adopted in 1791 as part of the United States Bill of rights; and

WHEREAS, Article 1 section 24 of the Washington State Constitution reads as follows, "the right of the individual citizen to bear arms in defense of himself, or the state shall not be impaired, but nothing in this section shall be construed as authorizing individuals or corporations to organize, maintain, or employ an armed body of men"; and

WHEREAS, the Fourth Amendment to the United States Constitution guarantees the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized; and

WHEREAS, the PEOPLE OF THE STATE OF WASHINGTON have enacted I-1639 which makes firearms unavailable for self-defense, strips adults aged 18-20 of their Constitutional Right to self-defense, will not have the impact on violent crime it promises, violates medical privacy laws and does not specify criteria for disqualification of ownership, would burden small business and law enforcement while placing personal information at risk, and does nothing to address the underlying causes of gun crime.

WHEREAS, *A new section is added to chapter 9.41 RCW to read as follows: (1) A person who stores or leaves a firearm in a location where the person knows, or reasonably should know, that a prohibited person may gain access to the firearm: "...Subsection (1) of this section does not apply if:*

(a) The firearm was in secure gun storage, or secured with a trigger lock or similar device that is designed to prevent the unauthorized use or discharge of the firearm;

(b) In the case of a person who is a prohibited person on the basis of the person's age, access to the firearm is with the lawful permission of the prohibited person's parent or guardian and supervised by an adult, or is in accordance with RCW 9.41.042;

(c) The prohibited person obtains, or obtains and discharges, the firearm in a lawful act of self-defense; or

(d) The prohibited person's access to the firearm was obtained as a result of an unlawful entry, provided that the unauthorized access or theft of the firearm is reported to a local law enforcement agency in the

jurisdiction in which the unauthorized access or theft occurred within five days of the time the victim of the unlawful entry knew or reasonably should have known that the firearm had been taken. (6) Nothing in this section mandates how or where a firearm must be stored.

Article 1 Section 24 of the Washington State Constitution. "The right of the individual citizen to bear arms in defense of himself, or the state, shall not be impaired…" requiring that firearms be "securely stored" renders them useless as a means of self-defense in one's home, this is a direct impairment of an explicitly intended, unalienable right. Furthermore, it does not pass the "Vagueness Doctrine", which requires that laws are so written that they explicitly and definitively state punishable conduct. There is nothing in this section to determine explicit punishment for violation of this conduct, therefore we do not recognize it as a valid law.

WHEREAS, Sec. 7. RCW 9.41.094 and 2018 c 201 s 6004 are each amended to read as follows: *"A signed application to purchase a pistol or semiautomatic assault rifle shall constitute a waiver of confidentiality and written request that the health care authority, mental health institutions, and other health care facilities release, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol or semiautomatic assault rifle to an inquiring court or law enforcement agency."* **This RCW does not designate a trained medical professional to make a recommendation or determination as to whether a person is medically fit to possess a firearm, nor does it provide a list of diagnoses or criteria that would preclude firearm ownership. This waiver to confidentiality does not expire, compromises the privacy of our personal medical records, and can lead to the unintended consequence of people under-reporting or not seeking help for mental illness out of fear of confiscation.**

Whereas,

(2) In addition to the other requirements of this chapter, no dealer may deliver a semiautomatic assault rifle to the purchaser thereof until:

(a) The purchaser provides proof that he or she has completed a recognized firearm safety training program within the last five years that, at a minimum, includes instruction on:

(i) Basic firearms safety rules;

(ii) Firearms and children, including secure gun storage and talking to children about gun safety;

(iii) Firearms and suicide prevention;

(iv) Secure gun storage to prevent unauthorized access and use;

(v) Safe handling of firearms; and

(vi) State and federal firearms laws, including prohibited firearms transfers.

The training must be sponsored by a federal, state, county, or municipal law enforcement agency, a college or university, a nationally recognized organization that customarily offers firearms training, or a firearms training school with instructors certified by a nationally recognized organization that customarily offers firearms training. The proof of training shall be in the form of a certification that states under the penalty of perjury the training included the minimum requirements;

Requiring a class to exercise a Right is fundamentally unconstitutional, whereby the US Federal Court, Washington, 2012 in Woollard v. Sheridan, 863 F. Supp. 2d 462, Judge Everett Benson Legg opined "A citizen may not be required to offer a 'good and substantial' reason why he should be permitted to exercise his rights. The right's existence is all the reason he needs." Judge Everett Benson Legg,

WHEREAS, the council reasonably believes that I-1639 violates the Second Amendment to the United States Constitution that clearly states, "…the right of the People to keep and bear arms, shall not be infringed,"; and

WHEREAS, the Council proclaims its opposition to the I-1639; and

WHEREAS, the Council took an oath to support and defend the United States Constitution.

NOW, THEREFORE, BE IT HEREBY RESOLVED to protect our citizens' Constitutional rights, the Town of Yacolt, Washington is herein proclaimed a "Second Amendment Sanctuary" as follows:

Draft Language for Yacolt Gun Rights Sanctuary Proclamation

Fundamental Principles Violated – Petition for Redress of Grievances Invoked

The following may be considered a petition for redress of grievances invoked under Washington Constitution, Article 1, Section 4 and or US Constitution, 1st Amendment in response to I-1639, I-594, etc. See below:

"ARTICLE 1, SECTION 4. Right of petition and assemblage. The right of petition and of the people peaceably to assemble for the common good shall never be abridged"

Said petition is directed in good faith at invoking the constitutional oaths taken by all jurisdictions (local, county, State and/or federal) of law enforcement to dutifully/ respectfully refuse enforcement of I-1639, I-594 and any or all similarly infringing legislative measures (collectively hereafter "I-1639 etc."). As support for this petition, authorities will be cited and arguments made below to illustrate two challenges for why Yacolt, Washington will exercise legitimate authority to declare its boundaries as a sanctuary for gun rights, whether related to Washington Constitution, Article 1, Section 24 or the 2nd Amendment to the federal Constitution. These two challenges do not exclude those concerning other infringements related to I-1639 etc. that others may choose to make. If I-1639 etc. is/are deemed valid on grounds of statutory presumptions, those presumptions are now objected to and rebutted by the following authorities and arguments. The two points of objection and rebuttal pertain to how certain fundamental constitutional principles bear on preserving the sanctity/integrity of fundamental rights. The first issue hinges on the word "maintain" as used in Washington Constitution's Article 1, Section 1. The second issue hinges on I-1639 etc. being illegitimate by token of being the products of illegitimate legal process, i.e. direct democracy (a la "fruit of the poisoned vine" doctrine)

Special appeal to law enforcement (LE): Reason for why LE should invoke their oaths to the Constitution(s) as grounds for refusal to enforce I-1639 etc., rather than automatically enforce and initiate court process.

After the passage of I-1639 specifically, reactions by LE have fallen into two camps. In one camp, owing to the overtness of I-1639's infringement, several Sheriffs in Washington have invoked their constitutional oaths as grounds to refuse its enforcement. In the other camp, LE have argued that it is not their role to determine the constitutionality of laws passed. They argue that their oath requires them to uphold the constitutions and laws and since I-1639 is now law, they are powerless to do anything but enforce it, until the courts determine that it is unconstitutional. In response to the reasonings of the second, indulgence is respectfully requested by LE. In good faith, Spock-like objective logic (if you will) must be applied to draw attention to a crucial omission in the let-courts-sort-it-out reasoning, i.e. the constitutional aspect of their oath.

If an oath is a fiduciary contractual precondition to receiving compensation for law enforcement work, acceptance of that compensation makes it logically, ethically, and contractually invalid and unauthorized for LE to simply equate the carrying-out of both components of the oath with the passing of deference to the presumption that court officers will, by surrogacy, honor their oaths for them through proper compliance with judicial branch oaths. If there is something that blurs the contours and boundaries of what, where, when, how and why an intervening oath is to be invoked, it's not because the oath lacks the substance to compel LE dutifulness. The only thing that reasonably blurs those

contours and boundaries is the lack of substance in the training education regarding those contours and boundaries.

The constitutional aspect of an LE oath is not intended to be mere ceremonial ornament. It is just as, if not more, solemn and binding than the law aspect of that oath. The constitutions are the conditional contractual permission slips for laws to exist. In theory, constitutions can exist in the absence of laws but not the other way around. Like a parent to a child, one controls and dictates to the other. One contractually sires the other. Granting that an LE oath is to uphold both the constitution(s)(State and federal) and laws, by the fact that laws depend on the constitutions for their validity it logically, necessarily follows that good-faith, sworn allegiance to the constitutional aspect of an oath dictates that constitutional consideration is, and on principle, ought to be the first measure taken in deciding whether to enforce a law or not. Otherwise, there would be no need for the constitutional component of an LE oath. To choose to only honor the "uphold the law" aspect of an oath is to suppress or circumvent the constitutional aspect of the oath which is just as much a contractual precondition to being paid for law enforcement work as the other, if not more.

Oaths are required as a contractual check and balance to steer and compel the decisions and actions of those who wield the powers of the government. The dereliction of oath duties by members of one branch of government (those who might pass infringing laws for example) does not dissolve the oath duties for members of other branches. To the contrary, contractually, it should trigger heightened sensitivity and vigilance among the other branches, in the same manner that the "will not enforce" Sheriffs in Washington have demonstrated.

This is especially the case when the laws being passed are being passed by people who hold no elected office that they can be voted out of (accountability?), nor are necessarily imposed upon by any sense of obligation to constitutional principles stemming from an oath (accountability?). Oath takers are therefore the most important component of our constitutional defense against the unbridled, agendized mob rule that I-1639 reveals direct democracy (initiative) to be. But this defense only exists if oath takers know how and why to be oath keepers. Without oath keepers there are no custodians of the ideas that made our country the envy of human history. Without them our whole system is a charade and we will ultimately vindicate Ben Franklin's cynical answer he gave a woman at the close of the constitutional convention. She asked if they had formed a republic or a monarchy. He answered:

"A Republic, if you can keep it"

On a more upbeat note, one of the silver linings of I-1639 specifically is that it so manifestly and thoroughly infringes a right that has been near and dear to Americans for their country's entire history, that it did compel the several Sheriff's in Washington (training be as it may) to call the spade a spade and invoke their oath of office as grounds for refusing I-1639's enforcement. This combined action by these Sheriffs sends a message that all enforcement officers should pay some hard and honest attention to because these Sheriffs are, whether consciously or not, tacitly invoking Article 1, Section 32 of the Washington Constitution. See below:

"SECTION 32 FUNDAMENTAL PRINCIPLES. A <u>frequent recurrence to fundamental principles **is essential**</u> to the security of individual right and the perpetuity of free government."

Furthermore, this provision of our State Constitution protects their decisions to invoke their oaths because their decision(s) to "recur to fundamental principles" in order to "secure individual rights" is also made "mandatory" by our State Constitution under Article 1, Section 29. See below:

"SECTION 29 CONSTITUTION MANDATORY. The provisions of this Constitution **are mandatory**, unless by express words they are declared to be otherwise."

In the same way or spirit that our jury system was put in place to ensure a last line of civilized protection against the potential for corrupt courts, oaths taken by LE cannot plausibly be shrugged away as business of the courts. If an infringing spade is by all obvious accounts an infringing spade, as the demonstrated consensus of the Sheriffs above have recognized, heed ought to be paid by all LE concerned. This is especially easy to do, when our State Constitution again provides crystal clear guidance on what standard that infringement is to be measured against, i.e. the first fundamental principle articulated by our Constitution at Article 1, Section 1. See below:

"ARTICLE 1, SECTION 1 POLITICAL POWER. All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect **and maintain** individual rights."

When it comes to enforcement of new laws that are passed, the word "maintain" in Article 1, Section 1 above is none other than a silver bullet LE needs to actively discern their daily duties through the lens of their oath. Because by token of the common knowledge standards for what exercise of any given right looks like, anything that lowers that understood watermark is something that fails the mandatory requirement to "maintain" rights, thus triggering by default an officer's duty to invoke their oath as grounds to refuse enforcement. This would replace the current paradigm of putting burden on citizens to suffer through unnecessary court action with an alternative paradigm of executive branch personnel instead going to court in their official capacity to administratively sort out the merits of their enforcement refusal under a "maintain" doctrine that the court would use to analyze and determine the constitutionality of the law that triggered the oath-invoked court process.

Likewise, a training curriculum based on adherence to the constitutional term "maintain" infers the need to determine whether rights enjoyment standards today themselves even meet the level of standards enjoyed in previous generations. This would inevitably force examinations of the histories of what constituted the original meanings, intents, extents, spectrums and thus standards of how Washingtonians and Americans exercised their rights, and in turn re-establish the baseline for what was and is meant by "individual right and perpetuity of free government". In theory, consistent with the "mandatory" "recurrence to fundamental principles", an examination of policies through history filtered through the word "maintain", would appropriately restore exercise of rights to the watermarks they started from, if not cause improvement beyond that. Imagining that, it would be easy to argue how if the LE community were to adopt an official training policy which amounted to what would become commonly known as the "mandatory" "recurrence to fundamental principles" doctrine, the ripple effects would bear much fruit for LE in terms of increased public support/assistance, by ending enforcement of laws rife with manifest infringement of fundamental rights of Washington citizens. In addition, a paradigm where LE feel empowered and motivated on the street to invoke their oath using the "maintain" smell test, would not only free up more of their time to focus on other important problems, but avoid confrontational hazards. Maybe even more importantly, such an LE enforcement doctrine through time would act to discourage future sponsorship, drafting or even conceiving of overtly bad laws that would be understood as "dead on arrival" via LE refusals under their "maintain" protocols.

Invocation of appropriate authorities

Since I-1639 etc. is/are state-level abuses, the Washington Constitution is the natural and proper authority to invoke and seek remedy and relief through. As a binding contract, Washington's Constitution was designed specifically for the purpose of protecting and maintaining the rights of Washington's citizens to equal or even greater degree than similar protections in the federal Constitution (see Washington's gun rights provision at Article 1, Section 24 for example). In the 2004 book titled Washington State Government and Politics, Cornell W. Clayton and Steven Meyer coauthor chapter 5 where on page 102 they cite the case of State v. Coe (1984) saying:

"Writing for the Court, Justice Utter articulated several reasons why the case should be treated first under Washington's constitution rather than the federal First Amendment: 'First, state courts have a ***duty to independently interpret and apply their state constitutions*** *that stems from the very nature of our federal system… Second, the histories of the United States and Washington Constitutions clearly demonstrate that* ***the protection of the fundamental rights of Washington citizens was intended to be and remains a separate and important function of our state constitution****… By turning to our own constitution first we grant the proper respect to our own legal foundations and fulfill our sovereign duties. Third, by turning first to our own constitution we can develop a body of independent jurisprudence… Fourth, we will be able to assist other states that have similar constitutional provisions develop a principled, responsible body of law… Finally,* ***to apply the federal constitution before the Washington Constitution would be as improper and premature*** *as deciding a case on state constitutional grounds when statutory grounds would have sufficed, and for essentially the same reasons.' "*

Authorities for Preservation of Rights to Appellate Review and Relief

If Yacolt, Washington's declaration of sanctuary status for gun rights (whether under WA Con. Art. 1, Sec. 24 or US Con. 2nd Amendment) is not honored as the contractually valid withdrawal/denial of consent to I-1639 etc. that it will be demonstrated to be below (see Contractual Consent), and/or if I-1639 etc. are not summarily held as null and void for reasons described below and/or others, claim is here made that said state-level refusal to declare I-1639 etc. void, nullification will constitute suppression or supplantation of the Republican Form of Government guaranteed to the citizens of Washington State by US Constitution Article 4, Section 4. Thus, US Constitution, Article 4, Section 4 (specifically no need or intention to invoke US 14th Amendment) will be relied upon as the proper authority for preserving rights to appellate review and relief through federal courts. This mode of preservation will be based on the first claim, to wit:

I-1639 etc. constitutes a state-level suppression of the rule of law via suppression of the contractually-binding, fundamental principle of "protect and **maintain**" at WA Con. Art. 1, Sec. 1.

Alternatively, consistent with "recurrence to fundamental principles" being "mandatory", US Constitution, Article 4, Section 4 will be relied upon as the proper authority for preserving rights to appellate review and relief based on the second claim, to wit:

Said infringing law(s) are the product(s) of unauthorized legislative process known as direct democracy which was illegitimately made a part of Washington's Constitution.

Argument for Claim 1: Contractual Consent and Violation of "Maintain" Rights Requirement

Constitutions are social compacts. Social compacts are by essence contracts. They are contracts struck between people who possess inherent power and prerogative to express their political self-

determination as they see fit for their interests. Voluntary consent is a mandatory component of the legitimacy of social contracts. Constitutions, as social contracts, form a legally-binding permanent record of understanding and consent about where political power rests and how it's distributed. Through the terms and conditions agreed to by the parties to a constitution, the tool called government is formed and if it performs according to the contractual terms and conditions for which it was made, the parties are bound in good faith to continue their consent through compliance with the contract and laws that emerge from it, and in compliance to it, through the government tool. Washington Constitution, Article 1, Section 1 records these facts in its own terms. See below again:

"ARTICLE 1, SECTION 1 POLITICAL POWER. *All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established **to** protect **and maintain** individual rights."*

Article 1, Section 1 (by contract) records that Washington citizens committed their consent to the establishment of their government based solely on one precondition… that it (government) will use the power granted to it "to protect and maintain" individual rights. It's prudent that the implications carried by this language be fleshed out further to recognize an important yet unstated fact. Since the people "inherently" (no exceptions declared) have the "power" to pledge their "consent" to laws **ONLY** if the government's contractual obligation to "protect and maintain" their rights is met, the reverse is also naturally true. Meaning, the people "inherently" have the "power" and contractual prerogative to withdraw or deny their consent to so-called "laws" which fail to "protect and **maintain**" their rights.

Further, Article 1, Section 1 refers to "individual rights", not collective rights. An individual is the smallest minority possible in a society. So if diminishment of a right is implicit in the goals or provisions of a law, whether the losing minority is 49% of the people or even one "individual", or whether the law's infringements lurk as a real threat for years without being applied, the fact remains that if the failure to "maintain" the right(s) in question is manifestly built in to said law, it is by nature unavoidably violent to Article 1, Section 1 with or without injured parties to bring suit before the courts. Logically, and legitimately, this triggers both the condition upon which citizen(s) may exercise their inherent power to withdraw their consent by refusing to comply, and/or the condition upon which LE invokes its oath to refuse enforcement, or both.

Argument for Claim 2: Republican Form of Government Violated by I-1639 Initiative Process

The direct democracy mode of legislative process is unauthorized and illegitimate as a result of the fact that there has never been an Amendment ratified under US Const. Article 5 to abolish or alter in any way the tacit exclusion of all forms of government under US Const. Art. 4, Sec. 4 excepting only the express "guarantee" for a Republican Form of Government. Additionally, said "guarantee" is a supreme guarantee by force of the supremacy clause of US Constitution, Article 6.

I-1639 etc. supplants or dismantles the integrity of protective accountability intended by exclusive representative governance described by the federal Constitution's requirement for a Republican Form of Government. Thus, so-called "laws" born from Washington's direct democracy system (dba initiative/referendum system [Article 2, Section 1), whether popular or not, have from their beginning been irreconcilably invalid and thus unenforceable, logically consistent with "fruit of the poisoned vine" doctrine. Courts that have used a "political prerogative" basis to dismiss their judicial duty of ruling on this question have thus permitted mob rule governance in Washington to wreak its disruptive effects on the business of duly elected representatives for a century. The argument that the people are free to

impose whatever form of government they choose because it is their political prerogative, fails to account for the contractual obstacle of Article 5 amendment process they imposed on themselves to make changes to federal Constitution provisions, like that of exclusive guaranteed Republican-style governance in the States at Article 4, Section 4. And if they are at liberty to summarily bypass that federal jurisdiction matter with state-level activism, every provision of the federal Constitution is likewise dismissible. If oaths matter, this is untenable and must be remedied by striking down direct democracy judicially as unconstitutional.

Owing to the broad and deep initiative/referendum jurisprudence implications of this challenge, it is appropriate to also here invoke the "Full Faith and Credit" clause of US Constitution, Article 4, Section 1, to borrow guiding insight and admonition from the Oregon Supreme Court in Judson v. Bee Hive Auto Service Co, 136 Ore. 1, 1930. See below:

"Believing that pride of opinion should not preclude correction of error, we will again give careful consideration to this case, thus following the admonition of an ancient law giver: 'If today thou seest fit to judge differently from yesterday, do not hesitate to follow the truth as thou seest it; for truth is eternal, and it is better to return to the true than to persist in the false.' "

Thus, in lieu of redress of grievances described by the arguments in claim 1 or claim 2 or both, the citizens of Yacolt, Washington declare the boundaries of their town as a non-compliant "sanctuary" against the gun rights infringements and/or others that permeate the body of I-1639 etc, to include in part as example, those infringements listed below.

Infringements, In Part, of I-1639

Despite long-standing precedent for how the term "assault rifle" is defined by qualified authorities on the matter (i.e. US military, BATF), where the definition of "assault rifle" applies only to those rifles capable of automatic or automatic burst fire, anti-gun activists have chosen in open bad faith to appoint themselves as the new experts on guns and shrug off the consensus of these authorities, in order to conjure their own definition for "assault rifle". Predictably enough, their "assault rifle" definition in I-1639 is tailored to enable the color-of-law ruse around which their quasi-legal siege can be expanded against a much wider family of guns as well as the accompanying rights of their owners, to include:

a) raising the legal age for purchasing a semi-automatic rifle from 18 to 21, thereby failing to maintain Article 1, Section 24 semi-automatic purchase options for 18-20 year-old citizens. This right is in part stripped from 18-20 year olds even though they are simultaneously and tellingly deemed by law at 16 to be adult enough - to buy and use vehicles on the highways in potentially deadly ways (like guns), to exercise their right to vote and cast ballots at 18 that ignorantly or even maliciously violate their fellow citizens rights (I-1639), and to join the military and use fully automatic rifles, machine guns, cannons, missiles, tanks etc. to kill or be killed in their nation's defense.

b) forcing citizens to surrender one right (Article 1, Section 7 rights to privacy for medical records) to access another right (Article 1, Section 24, armed self-defense), thus imposing a barrier or punishment as condition to their exercise of a right. Holding one right hostage to access the other patently fails to "maintain" either.

c) criminalizing citizens for someone else's criminal act of stealing their firearm(s) to harm others. Thus, a crime victim is deprived of liberty, property (money), reputation or any or all of

these for crimes committed against them by another. Further, by token of being made a criminal in this manner, the actual thief/thieves will know the victim or their family has no more guns, nor are eligible to buy more, opening the defenseless victim(s) up to future attacks by the original criminal(s) or their associates.

d) depriving liberty (time/energy required to travel and fill out background check forms) and property (fees/gas $) on a yearly basis in payment for mandatory annual background checks and safety classes until death, thus failing to maintain WA Con. Article 1, Section 3 personal rights.

e) forcing citizens to store their firearms in locked storage within their homes to avoid criminal liabilities referred to in item (c). Said requirement infers enforceability, i.e. authority of LE to force citizens without criminal warrant to comply with home entrance and inspection of firearms storage accommodations. This openly violates (thus fails to maintain) the home invasion prohibition at Article 1, Section 7, and/or is additionally void for vagueness for failing to prescribe how enforcement is to be carried out without violating Article 1, Section 7. Furthermore, compliance with such storage requirements results in the denial of citizens' rights to self-defense under Article 1, Section 24 by making timely access of their self-defense arms unlikely, thus exposing them to high potential for violent harm or death from fast moving violent intruders, who might then take their guns anyway after hurting or killing them to go hurt or kill other people. Article 1, Section 24 protection is thus deprived and not "maintained".

In summary, as a starter list, the following Washington Constitution rights are rights that I-1639 fails to "maintain" in violation of Article 1, Section 1, but said list does not necessarily represent the complete list of I-1639 infringements:

1) Article 1, Section 1 protect and maintain
2) Article 1, Section 29 Constitution mandatory
3) Article 1, Section 32 recurrence to fundamental principles
4) Article 1, Section 24 right to bear arms
5) Article 1, Section 23 no ex post facto
6) Article 1, Section 23 no law impairing obligation of contracts See Article 1, Section 1
7) Article 1, Section 7 right to privacy
8) Article 1, Section 7 prohibition against home invasion without warrant
9) Article 1, Section 8 no law granting irrevocable immunity
10) Article 1, Section 3 no deprivation of liberty or property

Conclusion

Owing to the spectrum of rights violations claimed and argued above, for any or all of the infringements listed above, any presumption(s) of I-1639's validity is/are hereby dissolved. As such, guided by consent arguments above and established findings from the Marbury v. Madison and Norton v. Shelby County citations in Yacolt's resolution, I-1639 and similarly breaching "laws" are proclaimed to be void and of no binding effect. Hence, contractual breach grounds exist for citizens of Yacolt, Washington to legitimately and righteously proclaim that they deny consent to compliance with I-1639 specifically, or by same token, any or all bills, initiatives, laws, measures, regulations, ordinances, provisions etc. which constitute a manifest contractual breach of the Article 1, Section 1 "protect **and maintain**" requirement for individual rights.