



Town of Yacolt

Council Meeting Agenda

Monday, February 12, 2024
7:00 PM
Town Hall

Call to Order

Flag Salute

Roll Call

Late Changes to the Agenda

Approve Minutes of Previous Meeting(s)

- [1.](#) Draft Minutes from Council Meeting January 8, 2024
- [2.](#) DRAFT Minutes from Special Council Meeting January 22, 2024
- [3.](#) DRAFT Minutes from Special Council Meeting February 5, 2024

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.

Unfinished Business

- [4.](#) Public Hearing re: Flood Damage Prevention Ordinance #596
- [5.](#) Ordinance #596 Adoption
- [6.](#) Railroad Avenue Subdivision Update
- [7.](#) Witt Counter-Offer

New Business

- [8.](#) Resolution #623 Tort Claims Agent
- [9.](#) Comprehensive Plan Update Proposal

- [10.](#) Security Cameras
- [11.](#) Revoke WATV Ordinance?
- [12.](#) Request for Permission for Runners to Camp in Rec Park During Race Event
- [13.](#) Building Department Challenges

Town Clerk's Report

Public Works Department Report

Attorney's Comments

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.

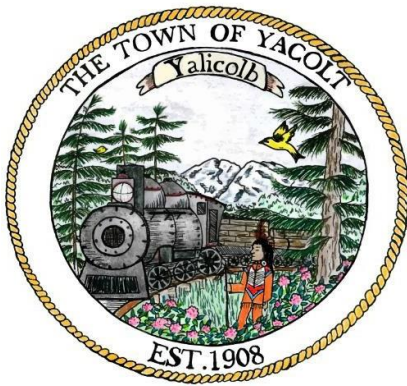
Council's Comments

Mayor's Comments

Approve to Pay Bills on Behalf of the Town

Executive Session

Adjourn



Town of Yacolt

Town Council Meeting Minutes

Monday, January 8, 2024

7:00 PM

Town Hall

Call to Order

7:00 PM

Flag Salute

Roll Call

Council Members Present: Joe Wisniewski, Kandi Peto, Craig Carroll, Ronald Homola, Marina Viray

Also present: Mayor Ian Shealy, Attorney David Ridenour, Public Works Director Terry Gardner, and Clerk Stephanie Fields

Late Changes to the Agenda

No Executive Session

Approve Minutes of 12-11-23 Meeting with minor change mentioned by Councilmember Homola

Motion: Homola

2nd: Carroll

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

Citizen Communication

Jeff Carothers expressed that he feels there are many parts of Town which are very dark and not well-enough lit. Mayor Shealy asked him to get us a list of specific areas/streets he feels are too dark at night. There was a short discussion about strategic placement of lighting, and light pollution.

Anne VanAntwerp asked when S. Hubbard Ave is going to be repaved, and Clerk Fields informed her that we wanted to pave it this year, but we did not get the grant we applied for.

Unfinished Business

Conditional Use Permit Public Hearing and Decision

Mayor Shealy and Councilmember Carroll recused themselves as potentially interested parties, and Mayor Pro Tem Marina Viray stepped in to close the regular meeting and open the Public Hearing at 7:08 pm. Attorney Ridenour presented a summary of the Staff Report, identified concerns raised by Staff, and shared Staff's recommendation. The Applicant offered no testimony. Cindee Clark was sworn in and testified in favor of the permit. Briann Shealy was sworn in and also testified in favor of permit approval. Councilmember Peto asked for clarification on the duration of the permit. Councilmember Homola and Anne Van Antwerp both asked if the permit would require adherence to fire codes.

Homola also wanted a condition that the front of the garage be finished to resemble the remainder of the garage after the proposed new front door gets installed. Following all testimony, Mayor Pro Tem Viray closed the public hearing and re-opened the regular meeting at 7:43 pm. Motion was then made to approve the Conditional Use Permit with the Condition Homola asked for.

2nd: Peto

Nay: 0

Motion Carried

New Business

Hazen Proposal

Brad Hazen gave a short history on his property across from the Library, and presented his thoughts on developing the property for its best use in our Town.

A neighbor, Larry Hinchman, read a short statement about his own home next to Hazen's property, and said it would be a shame to have Hazen's plan come to fruition. There was quite a bit of discussion including council members, public members, and Hazen. Some was in regard to Hazen's plan, some was suggestions for other uses for the land. Whatever Hazen decides to do, Attorney Ridenour suggested he schedule a pre-app conference beforehand.

SAO DSA Request

Clerk Fields explained that the State Auditor's Office has upgraded their file transfer security system and they therefore asked all agencies to renew their Data Safety Agreements. Motion was made to do so.

2nd: Peto

Nay: 0

Motion Carried

TIB Engineering Consultant Agreement

Jackson Civil Engineering asked the Town to approve for them to be the Town's consultants for a grant we were awarded from the Transportation Improvement Board. (JCE is the Town's Engineering firm, and they were the ones who applied for the grant on behalf of the Town.) Motion for approval was made.

2nd: Viray

Nay: 0

Motion Carried

Rotate Finance Committee

Councilmember Homola nominated Councilmember Wisniewski to serve on the Finance Committee.

2nd: Carroll

Nay: 0

Motion Carried

Rotate Mayor Pro Tempore

Councilmember Viray nominated Councilmember Homola to serve as Mayor Pro Tempore.

2nd: Peto

Nay: 0

Motion Carried

Town Clerk's Report

- The horses in the backyard within Town limits were moved out of Town before the deadline; now the homeowner has a fence permit application and some other issues going on.
- Tomorrow a computer tech is coming to hopefully fix some lingering email and computer problems.
- Will be working on invoicing and closing out 2023.
- Will also be working hard on many permit applications for new homes in the RR Ave subdivision. Lost her office assistant, so may be looking for a replacement.
- Hoping to have a meeting with Charlie Witt next week.
- Asked elected officials to please print off and bring in their training certificates and reminded them to continue taking the RMSA trainings.
- Asked Council to attend a special meeting to approve final conditions for the RR Ave subdivision. It was agreed to hold the meeting on Jan. 22 at 7pm.

Public Works Department Report

- Took Christmas lights down, and many of the light strings on the big Town Tree had been cut and many of the ornaments on the surrounding trees had been smashed. (Councilmember Peto also noted that a lot of trash got left at the Rec Park from fireworks on New Years Eve. Gardner said when you see something like that, please let him know.)
- 5 stop signs have been smashed down. Apparently, there is a new Tik-Tok challenge out daring kids to drive their vehicles up sign poles until the poles bend over.
- Have been cleaning up the shop and preparing for snow.

Attorney's Comments

- It was a great meeting, and it's a pleasure to have a new Mayor on board.

Citizens' Communication

Anne Van Antwerp said she appreciated that the two elected officials who had an interest in the Public Hearing recused themselves.

Jeff Carothers said he knows what it's like to be a Councilmember and Mayor, and he appreciates them.

Council's Comments

Peto – Welcome Mayor Shealy and Councilmember Wisniewski.

Homola – Feels like the Town is moving in the right direction.

Viray – Attended the UCPB Board meeting, and they have received 18 Applications for grants.

Mayor's Comments

- Thanked people for trusting him for this position. He's in it for the Town and community.
- Has been working with Ro on a Community Events Calendar; it's still very much in the planning stage. He handed out a copy of it. January 22nd is the first meeting.

Approve to Pay Bills on Behalf of the Town

Motion: Peto **2nd:** Homola

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

Adjourn

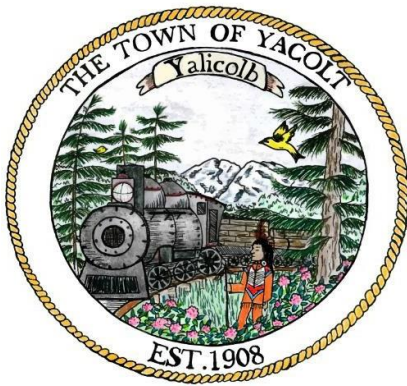
8:54 pm

Mayor Ian Shealy

Clerk Stephanie Fields

Approved by Council vote on _____

DRAFT



Town of Yacolt

Special Town Council Meeting

Minutes

Monday, January 22, 2024

7:00 PM

Town Hall

Call to Order

7:00 PM

Flag Salute

Roll Call

Council Members Present: Joe Wisniewski, Kandi Peto, Craig Carroll, Ronald Homola, Marina Viray

Also present: Mayor Ian Shealy, Attorney David Ridenour, Public Works Director Terry Gardner, and Clerk Stephanie Fields

Late Changes to the Agenda

None

Citizen Communication

None

Executive Session

Mayor Shealy called for an Executive Session at 7:02 pm. to discuss potential litigation. The Town Attorney and Clerk attended the meeting along with the Mayor and all Council members. At 7:32, the Mayor extended the Executive Session until 7:40 pm, at which time the regular meeting reconvened.

New Business

Railroad Avenue Subdivision Final Plat Approval

Cornell and Jordan Rotschy answered various questions regarding the subdivision's stormwater facilities, the HOA and ARC review. Motion was made to Approve the Final Plat.

Motion: Homola

2nd: Carroll

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

RR Ave Subdivision Security Agreement for Project Completion (with Performance Bond)

Attorney Ridenour presented the punch-list of items to be completed before Jackson Civil Engineering does a final walk-through of the subdivision. Once they are satisfied that all is complete, the bond is to be released. This bond allows 6 months for final project completion. Motion was made to approve the

Security Agreement for Project Completion with the Performance Bond substantially similar to the one presented to Council.

Motion: Homola

2nd: Viray

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

RR Ave Subdivision: Agreement for Two-Year Stormwater Facilities Maintenance by Developer (with Performance Bond)

It was discussed that Rotschy would need to send the Town a copy of their Stormwater Facility Inspection Report after every inspection, at least once/year, in 2024 and 2025, in July or August. Motion was made to approve the Stormwater Facilities Maintenance Security Agreement with Performance Bond in a form substantially similar to the one presented to Council.

Motion: Homola

2nd: Carroll

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

RR Avenue Subdivision: Declaration of Easements, Covenants, Conditions and Restrictions for Stormwater Facilities Maintenance

Attorney Ridenour explained that this would be recorded with the land, not only in the HOA Agreement. Motion was made to approve the 'Declaration of Easements, Covenants, Conditions and Restrictions for Maintenance of Stormwater Facilities' in a form substantially similar to the version presented to the Council, and authorize the Developer to sign and record the Declaration pursuant to the instructions of the Town Attorney.

Motion: Peto

2nd: Homola

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Nay: 0

Motion Carried

RR Avenue Subdivision: Homeowner's Association, (CC&Rs, Bylaws and related documents)

Councilmember Homola asked that the prohibition on fireworks in section 4.8 be removed, as this is not consistent with the Town's Code. He also asked about the duration of the HOA being 35 years, and then suggested that in the last sentence of section 12.8 the words "Clark County" should be replaced with "the Town of Yacolt". Motion was made to approve the 'Declaration of Covenants, Conditions and Restrictions for the Railroad Avenue Subdivision Homeowner's Association' in a form substantially similar to the version presented to the Council, and authorize the Developer to sign and record the Declaration pursuant to the instructions of the Town Attorney.

Motion: Carroll

2nd: Peto

Aye: Wisniewski, Peto, Carroll, Homola, Viray

Motion Carried

Railroad Avenue Subdivision: Resolution to Approve Agreements and Declarations for the Railroad Avenue Subdivision

Motion was made to approve Resolution #622 describing its approval of agreements and declarations for the Railroad Avenue Subdivision and authorizing the Town's Mayor and staff to execute such agreements and related documents as necessary to process the Town's acceptance of the Subdivision, with a minor change on item #5 which was suggested by Councilmember Carroll.

Motion: Peto
Aye: Wisniewski, Peto, Carroll, Homola, Viray
Motion Carried

2nd: Homola

Nay: 0

Adjourn

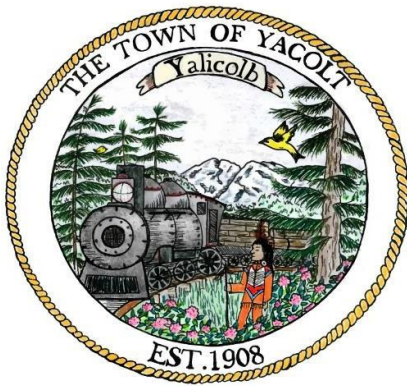
8:47 pm

Mayor Ian Shealy

Clerk Stephanie Fields

Approved by Council vote on _____

DRAFT



Town of Yacolt

Special Council Meeting Minutes

Monday February 5th, 2024

7:00 PM

Town Hall

Call to Order

7:00 PM

Flag Salute

Roll Call

Council Members Present: Kandi Peto, Craig Carroll, Ronald Homola, Marina Viray

Also present: Mayor Ian Shealy, Public Works Director Terry Gardner, and Clerk Stephanie Fields

Not present: Council Member Joe Wisniewski, Attorney David Ridenour

Late Changes to the Agenda

None

New Business

Purchase of Trucks

Council heard how PWD Gardner explain how he came across the deals. 2014 4WD 4DR has lights already installed, like new 91k miles price \$3600, 2005 Standard ¾ ton is \$1400 with 70k miles. Gardner thinks we should strip down the F250 and sell it as it has well over 200k miles on it and repairs are costly. Council member Homola asked about storing extra vehicles and wants a deadline for swapping out parts and getting rid of extra trucks.

Motion: Homola **2nd:** Viray

Aye: Peto, Carroll, Homola, Viray

Nay: 0

Absent: Wisniewski

Motion Carried

ORD 595: Accepting Donation of Truck

It was discussed that instead of fixing this truck (which probably needs a new transmission), we could strip parts off and put them on the other truck and sell the donated truck.

Motion: Viray **2nd:** Peto

Aye: Peto, Carroll, Homola, Viray

Nay: 0

Absent: Wisniewski

Motion Carried

Stormwater Pond Water Testing

Council member Carroll explained that townspeople and people south of town are very concerned about water quality from the stormwater runoff pond at the new subdivision. He recommends baseline analysis and a test after all construction is complete and on a recurring basis needing further discussion. After a bit of discussion, Council member Peto suggested to do baseline test now, then again in 6 months, then in additional 6 months and then in 12 months.

Motion: Peto **2nd:** Viray

Aye: Peto, Carroll, Homola, Viray

Nay: 0

Absent: Wisniewski

Adjourn

7:37pm

Mayor Ian Shealy

Clerk Stephanie Fields

Approved by Council vote on _____



Town of Yacolt

Request for Council Action

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

Name: Stephanie Fields, Town Clerk
David W. Ridenour, Town Attorney
Group Name: Staff

Address: 202 W. Cushman St.
P.O. Box 160
Yacolt, WA 98675
Phone: David Ridenour (360) 991-7659

Email Address: david@davidridenourlaw.com
Alt. Phone: Town Clerk (360) 686-3922

ITEM INFORMATION:

Item Title: Public Hearing on Development Regulations for Flood Damage Prevention, (Interim and Permanent)

Proposed Meeting Date: February 12, 2024.

Action Requested of Council: Conduct a public hearing on the Town's interim regulations for Flood Damage Prevention and on Ordinance #596, which would make the interim regulations permanent.

Proposed Motion: None; Public hearing only

Summary/ Background: The Town of Yacolt began working with the Federal Emergency Management Agency (FEMA) in 2023 to update the Town's Flood Damage Prevention Program. (Yacolt's Flood Damage Prevention Program is codified at YMC 15.15.)

FEMA wanted the Town to update its development regulations for Flood Zones before November 2, 2023 in order to comply with new Federal laws. By meeting that deadline, the Town's participation in the National Flood Insurance Program (NFIP) would not be interrupted.

The Town Council tentatively approved new Codes for Yacolt's Flood Damage Prevention Program at special meeting held on October 16, 2023. The proposed Codes were submitted to the Department of Commerce the next day for expedited review.

The Town did not receive State agency approvals in time to meet the November 2 deadline, so the Town Council approved the new Codes as *interim* regulations in Ordinance #593 at a special meeting held on October 23, 2023. The interim regulations were submitted to the Department of Commerce on October 25, 2023 for expedited review. The adoption of interim regulations satisfied FEMA's November 2, 2023 deadline.

The Town's requests for expedited review by the Department of Commerce were not granted. State agency review of the interim and proposed permanent regulations took the standard 60 days which ended on December 24, 2023. The State agencies ultimately had no objection to the Town's proposed new regulations or to the interim regulations in Ordinance #593.

In January, the Town Attorney confirmed that the development regulations had been accepted by all State agencies. Staff then scheduled the matter for a public hearing and Council review during the next available Council meeting. A Notice of Public Hearing was published in the Reflector on January 24, 2024, with the public hearing to take place during the Council's regular February meeting.

Staff has drafted proposed Ordinance #596 to replace the interim temporary regulations in Ordinance #593. The new development regulations in Ordinance #596 are identical to what the Council approved on an interim basis in Ordinance #593.

Members of the public are allowed to submit written and verbal testimony about the Flood Damage Prevention regulations. The public hearing will be followed by the Council's consideration of Ordinance #596.

Attachments:

Proposed Ordinance #596.

Staff Contact(s):

Stephanie Fields, Town Clerk.
David W. Ridenour, Town Attorney.

ORDINANCE #596

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, REPEALING ORDINANCE #593, (INTERIM DEVELOPMENT REGULATIONS RELATING TO DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS, YMC 15.15); REPEALING AND REPLACING YMC 15.15 (FLOOD DAMAGE PREVENTION) TO UPDATE REGULATIONS FOR DEVELOPMENT IN FLOOD HAZARD AREAS AS REQUIRED FOR JURISDICTIONS PARTICIPATING IN THE NATIONAL FLOOD INSURANCE PROGRAM; MAKING FINDINGS OF FACT; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION

Whereas, pursuant to RCW 86.16, the Legislature of the State of Washington has delegated responsibility to local communities to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry;

Whereas, certain properties in the Town of Yacolt, (“*Town*” or “*Yacolt*”), lie within, or partially lie within, special flood hazard areas;

Whereas, flood hazard areas in Yacolt are subject to periodic flooding which can result in damage to people or property, create health or safety hazards, disrupt commerce or governmental services, cause extraordinary public expenditures for flood protection and relief, or impair the tax base, all of which adversely affect the public health, safety, and general welfare;

Whereas, uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage can contribute to losses due to flooding;

Whereas, flood-related losses can also be caused by the cumulative effect of obstructions in areas of special flood hazards that increase flood heights and velocities, and damage uses in other areas when inadequately anchored;

Whereas, to continue its participation in the National Flood Insurance Program, (“*NFIP*”), the Town is required to update its flood damage prevention program from time to time in order to maintain compliance with new standards as they may be adopted from time to time by the Federal Emergency Management Agency, (FEMA) and/or the Washington State Department of Ecology;

Whereas, the Town Council has adopted and updated previous versions of its flood damage prevention programs in Resolution #197 adopted May 15, 1978; Ordinance #251 adopted April 3, 1984; Ordinance #440 adopted April 17, 2006; Ordinance #454 adopted July 16, 2007; Resolution #477 adopted on April 16, 2012; and Ordinance #502 adopted August 6, 2012;

Whereas, the Town was required to adopt updated floodplain management measures to meet or exceed new minimum NFIP requirements by November 2, 2023, to avoid suspension from the NFIP;

Whereas, if Yacolt had been suspended from the NFIP, residents would have been unable to purchase flood insurance, renew existing flood insurance policies, or obtain Federal mortgage insurance or loan guarantees for properties within an identified flood hazard area, and federal grants, loans, and disaster assistance would not have been available to properties within an identified flood hazard area;

Whereas, on October 16, 2023, the Town Council tentatively adopted new development regulations for its Flood Damage Prevention Program in order to avoid suspension from the NFIP;

Whereas, pursuant to RCW 36.70A.106(3)(b), the Town sent notice of the proposed adoption of new development regulations for its Flood Damage Prevention Program to the Washington State Department of Commerce on October 17, 2023, and requested expedited review;

Whereas, the Town Council adopted the proposed development regulations on an interim basis pursuant to RCW 36.70A.390 in Ordinance #593 on October 23, 2023;

Whereas, the Town sent notice of its interim development regulations in Ordinance #593 to the Washington State Department of Commerce on October 25, 2023, and requested expedited review;

Whereas, the interim development regulations in Ordinance #593 for Yacolt's Flood Damage Prevention Program were codified at Chapter 15.15 of the Yacolt Municipal Code, ("YMC");

Whereas, the interim regulations described in Ordinance #593 were necessary to ensure that the Town met the deadline imposed by FEMA for adoption of the new minimum development standards for flood damage prevention;

Whereas, the Yacolt Town Council determined that an emergency existed which required that Ordinance #593 be enacted as a new interim development regulation on an emergency basis in order to preserve the public health, safety, and welfare and maintain eligibility for flood insurance through the NFIP;

Whereas, the Washington State Department of Commerce provided a standard 60-day review of the Town's proposed and interim development regulations;

Whereas, following a review period that ended on December 24, 2023, the Washington State Department of Commerce, Department of Ecology, and other State agencies approved the proposed and interim development regulations;

Whereas, on February 12, 2024, the Yacolt Town Council, following adequate public notice, held a public hearing on the proposed development regulations and the development regulations adopted in Ordinance #593, to receive staff and citizen input concerning the proposed amendments to YMC 15.15; and all persons who wished to be heard on the matter were heard;

Whereas, in the event this Ordinance #596 is adopted and becomes effective, it is necessary and appropriate that the six-month interim development regulations enacted pursuant to Ordinance #593 should be repealed and replaced by this Ordinance;

Whereas, the Town Council has determined that it is in the public interest, health, safety and welfare to repeal and replace YMC 15.15 in order to maintain participation in the National Flood Insurance Program and allow citizens within the Town to obtain flood insurance and related benefits; and,

Whereas, the Town Council is in regular session this 12th day of February, 2024, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Ordained by the Town Council of the Town of Yacolt, Washington:

Section 1 – Adoption of Recitals: The foregoing Recitals are hereby adopted by the Town Council as findings of fact in support of the interim and final development regulations imposed by Ordinance #593

and this Ordinance #596. The Recitals are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance upon adoption hereof.

Section 2 – Repeal of Interim Flood Damage Prevention Regulations: The six-month interim development regulations enacted by the adoption of Ordinance #593 on October 23, 2023, entitled “An Ordinance of the Town of Yacolt, Washington, Adopting Interim Development Regulations Relating to Development in Special Flood Hazard Areas; Making Findings of Fact; Amending Chapter 15.15 of the Yacolt Municipal Code (Flood Damage Prevention) on an Interim Basis to Reflect New FEMA Standards for Participation in the National Flood Insurance Program; Declaring an Emergency; Providing for an Effective Date; and Providing for Summary Publication”, are hereby repealed in their entirety.

Section 3 – Repeal of YMC 15.15, Flood Damage Prevention: YMC Chapter 15.15, entitled Flood Damage Prevention, is hereby repealed in its entirety.

Section 4 – YMC Chapter 15.15, Flood Damage Prevention, Reenacted: Chapter 15.15 of the Yacolt Municipal Code, (Flood Damage Prevention), is hereby reenacted to read as follows:

Chapter 15.15 FLOOD DAMAGE PREVENTION

Sections:

- 15.15.010 Findings of fact, purpose and objectives.
- 15.15.020 Definitions.
- 15.15.030 General provisions.
- 15.15.040 Administration.
- 15.15.050 Provisions for Flood Hazard Reduction.
- 15.15.060 Variances.
- 15.15.070 Standards for Shallow Flooding Areas, (AO Zones)

15.15.010 Findings of fact, purpose and objectives.

A. Findings of Fact.

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

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

B. Statement of Purpose. It is the purpose of this Chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1. Protect human life and health;
- 2. Minimize expenditure of public money for costly flood control projects;
- 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4. Minimize prolonged business interruptions;
- 5. Minimize damage to public facilities and utilities, such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in flood hazard areas;

6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
7. Notify potential buyers that the property is in a Special Flood Hazard Area;
8. Notify those who occupy flood hazard areas that they assume responsibility for their actions; and
9. Participate in and maintain eligibility for flood insurance and disaster relief.

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

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

15.15.020 Definitions.

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

Appeal: A request for a review of the interpretation of any provision of this Chapter or a request for a variance.

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

Area of Special Flood Hazard: The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as zone A, AO, AH, A1-30, AE, A99, AR (V, VO, V1-30, VE). "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

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

Base Flood: The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").

Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

Basement: Any area of the building having its floor sub-grade (below ground level) on all sides.

Building: See "Structure."

Building Code: The currently effective versions of the International Building Code and the International Residential Code adopted by the State of Washington Building Code Council.

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

Critical Facility: A facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and

emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

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

Essential Facility: This term has the same meaning as “Essential Facility” defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

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

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

Farmhouse: A single-family dwelling located on a farm site where resulting agricultural products are not produced for the primary consumption or use by the occupants and the farm owner.

Flood or Flooding:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters.
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood Elevation Study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

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

Flood Insurance Study. See “Flood Elevation Study”.

Floodplain or Flood Prone Area: Any land area susceptible to being inundated by water from any source. See “Flood or flooding.”

Floodplain Administrator: The Town of Yacolt’s official designated by title to administer and enforce the floodplain management regulations.

Floodplain Management Regulations: Zoning codes, subdivision regulations, building codes, health regulations, critical areas codes, environmental protection codes, special purpose codes (such as floodplain regulations, grading regulations, and erosion control regulations), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Functionally Dependent Use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure: Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior,
- or

- b. Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter, (i.e., provided there are adequate flood ventilation openings).

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

New Construction: For the purposes of determining insurance rates, structures for which the

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

One Hundred Year Flood or 100 Year Flood: See “Base flood.”

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

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

Recreational Vehicle: A vehicle,

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Structure: For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

1. Any project for improvement of a structure to correct previously identified existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure,” provided that the alteration will not preclude

the structure's continued designation as a "historic structure."

Variance: A grant of relief from the terms of this Chapter or other floodplain management regulation that permits construction in a manner that would otherwise be prohibited by this Chapter or other floodplain management regulation.

Violation: The failure of a structure or other development to be fully compliant with the Town of Yacolt's floodplain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation: The height, in relation to the vertical datum utilized in the applicable flood insurance study of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Water Dependent: A structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

15.15.030 General Provisions.

A. Lands to Which This Chapter Applies. This Chapter shall apply to all special flood hazard areas within the boundaries of the Town of Yacolt.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report titled "The Flood Insurance Study for Clark County, Washington and Incorporated Areas" dated November 2, 2023, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this Chapter. The FIS and the FIRM are on file at the Yacolt Town Hall, located at 202 W. Cushman Street, Yacolt, Washington, or at such other place as may be designated by the Town council. The best available information for flood hazard area identification as outlined in Subsection .040-C-2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Subsection .040-C-2.

C. Compliance. All development within special flood hazard areas is subject to the terms of this Chapter and other applicable regulations.

D. Penalties For Noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations.

1. Any violation of this Chapter, (including any violation of conditions and safeguards established in connection with conditions), is hereby declared a nuisance. Any person who violates this Chapter or fails to comply with any of its requirements shall be subject to the provisions of YMC 8.05, (Nuisances), including the provisions for payment of a monetary penalty.

2. The Town's remedies with respect to the enforcement of the provisions of this Chapter are cumulative and not exclusive. Nothing contained herein shall prevent the Town of Yacolt or any other authorized agency from taking such other lawful action as is necessary to prevent or remedy any violation.

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

F. Interpretation.

In the interpretation and application of this Chapter, all provisions shall be:

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

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

H. **Severability.** This Chapter and the various parts thereof are hereby declared to be severable. If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, or its application to any person or circumstances is held invalid, the remaining portion of this Chapter shall remain in full force and effect, and the application of the provision to other persons or circumstances shall not be affected.

15.15.040 Administration.

A. Establishment of Development Permit.

1. **Development Permit Required.** A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section .030. The permit shall be for all structures including manufactured homes, as set forth in the “Definitions,” and for all development including fill and other activities, also as set forth in the “Definitions.”

2. **Application for Development Permit.** Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the Floodplain Administrator.
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Where a structure is to be floodproofed, certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in Subsection .050-B-2;
- d. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development;
- e. Where a structure is proposed in a V, V1-30, or VE zone, a V-zone design certificate;
- f. Where development is proposed in a floodway, an engineering analysis indicating no rise of the Base Flood Elevation, and
- g. Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

B. **Designation of the Floodplain Administrator.** The Mayor of the Town of Yacolt is hereby appointed as the Floodplain Administrator, with authority to administer, implement, and enforce

this Chapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement the provisions of this Chapter.

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

1. Permit Review. Review all development permits to determine that:
 - a. The permit requirements of this Chapter have been satisfied;
 - b. All necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
 - c. Review all development permits to determine that the proposed development site is reasonably safe from flooding;
 - d. The proposed development is not located in the floodway. If located in the floodway, assure the encroachment provisions of Subsection .050-D are met;
 - e. Notify FEMA when annexations occur in the Special Flood Hazard Area.
2. Use of Other Base Flood Data (In A and V Zones). When base flood elevation data has not been provided (in A or V zones) in accordance with Subsection 030-B, (Basis For Establishing the Areas of Special Flood Hazard), the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, in order to administer Subsections .050-B, (Specific Standards), and .050.D, (Floodways). Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (Subsection 040-C-2), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.
3. Information to be Obtained and Maintained.
 - a. Where base flood elevation data is provided through the FIS, FIRM, or required as in Subsection .040-C-2, obtain and maintain a record of the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - b. Obtain and maintain documentation of the elevation of the bottom of the lowest horizontal structural member in V or VE zones.
 - c. For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in Subsection .040-C-2:
 - i. Obtain and maintain a record of the elevation (in relation to mean sea level) to which the structure was floodproofed.
 - ii. Maintain the floodproofing certifications required in Section .040-A-2-c.
 - d. Certification required by Subsection .050-D-1, ((No Rise Standard).
 - e. Records of all variance actions, including justification for their issuance.
 - f. Improvement and damage calculations.
 - g. Maintain for public inspection all records pertaining to the provisions of this Chapter.
4. Alteration of Watercourse. Whenever a watercourse is to be altered or relocated:
 - a. Notify adjacent communities and the Department of Ecology prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator through appropriate notification means.
 - b. Assure that the flood carrying capacity of the altered or relocated portion of said watercourse is maintained.
5. Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such

appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program, (NFIP), (44 CFR 59-76).

6. Review of Building Permits. Where elevation data is not available either through the FIS, FIRM, or from another authoritative source, (Section .040-C-2), applications for floodplain development shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. (Failure to elevate habitable buildings at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.)

7. Changes to Special Flood Hazard Area.

a. If a project will alter the BFE or boundaries of the SFHA, then the project proponent shall provide the community with engineering documentation and analysis regarding the proposed change. If the change to the BFE or boundaries of the SFHA would normally require a Letter of Map Change, then the project proponent shall initiate, and receive approval of, a Conditional Letter of Map Revision (CLOMR) prior to approval of the development permit. The project shall be constructed in a manner consistent with the approved CLOMR.

b. If a CLOMR application is made, then the project proponent shall also supply the full CLOMR documentation package to the Floodplain Administrator to be attached to the floodplain development permit, including all required property owner notifications.

8. Application Procedures and Decisions. Permit applications and decisions shall follow the procedures described in the Town of Yacolt's regulations for building and development applications, as they may be determined to applicable by the Floodplain Administrator and as they may be supplemented by the terms of this Chapter.

15.15.050 Provisions for Flood Hazard Reduction.

A. General Standards.

In all areas of special flood hazards, the following standards are required:

1. Anchoring.

a. All new construction and substantial improvements, including those related to manufactured homes, shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.

b. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (44 CFR 60.3(b)(8)). For more detailed information, refer to guidebook, FEMA-85, "Manufactured Home Installation in Flood Hazard Areas."

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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

3. Storage of Materials and Equipment.

a. The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

b. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

4. Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
- b. Water wells shall be located on high ground that is not in the floodway (WAC 173-160-171);
- c. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- d. Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5. Subdivision Proposals and Development. All subdivisions, as well as new development shall:

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

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section .030-B, (Basis for Establishing the Areas of Special Flood Hazard), or Section .040-C-2, (Use of Other Base Flood Data). The following provisions are required:

1. Residential Construction.

- a. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE. Mechanical equipment and utilities shall be waterproof or elevated least one foot above the BFE.
- b. New construction and substantial improvement of any residential structure in an AO zone shall meet the requirements in Section 15.15.070.
- c. New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least one foot above the Highest Adjacent Grade.
- d. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. A registered engineer or architect may design and certify engineered openings, or the designs must meet or exceed the following minimum criteria:

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

2. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Subsections .050-B-2-a or .050-B-2-b, below.

- a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

i. In AE and A1-30 zones or other A zoned areas where the BFE has been determined or can be reasonably obtained, new construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated one foot or more above the BFE, or elevated as required by ASCE 24, whichever is greater. Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE, or as required by ASCE 24, whichever is greater.

ii. If located in an AO zone, the structure shall meet the requirements in Section 15.15.070.

iii. If located in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained, the structure shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

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

(A). Have a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

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

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

(D). A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of flood waters.

b. If the requirements of Subsection .050-B-2-a are not met, then new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet all of the following requirements:

i. Be dry floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry floodproofed to the elevation required by ASCE 24, whichever is greater;

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

iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Subsection .040-C-3-b;

iv. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Subsection .050-B-1-e.

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

4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than 180 consecutive days; or,

b. Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or,

c. Meet the requirements of Subsection .050-B-3 above.

5. Enclosed Area Below the Lowest Floor. If residential structures, nonresidential structures,

or manufactured homes are constructed or substantially improved with fully enclosed areas below the lowest floor, the areas shall be used solely for parking of vehicles, building access, or storage.

6. Appurtenant Structures (Detached Garages & Small Storage Structures). For A Zones (A, AE, A1-30, AH, AO):

a. Appurtenant structures used solely for parking of vehicles or limited storage may be constructed such that the floor is below the BFE, provided the structure is designed and constructed in accordance with the following requirements:

- i. Use of the appurtenant structure must be limited to parking of vehicles or limited storage;
- ii. The portions of the appurtenant structure located below the BFE must be built using flood resistant materials;
- iii. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement;
- iv. Any machinery or equipment servicing the appurtenant structure must be elevated or floodproofed to or above the BFE;
- v. The appurtenant structure must comply with floodway encroachment provisions in Subsection .050-D-1;
- vi. The appurtenant structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Subsection .050-B-2-a-v.
- vii. The structure shall have low damage potential,
- viii. If the structure is converted to another use, it must be brought into full compliance with the standards governing such use, and
- ix. The structure shall not be used for human habitation.

b. Detached garages, storage structures, and other appurtenant structures not meeting the above standards must be constructed in accordance with all applicable standards in Subsection .050-B-1.

c. Upon completion of the structure, certification that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

C. AE and A1-30 Zones with Base Flood Elevations but No Floodways. In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

D. Floodways. Located within areas of special flood hazard established in Subsection .030-B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

1. No Rise Standard. Prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Residential Construction in Floodways. Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure that do not increase the ground floor area; and (ii) repairs, reconstruction, or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for

improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

a. Replacement of Farmhouses in Floodway. Repairs, reconstruction, replacement, or improvements to existing farmhouse structures located in designated floodways and that are located on lands designated as agricultural lands of long-term commercial significance under RCW 36.70A.170 may be permitted subject to the following:

- i. The new farmhouse is a replacement for an existing farmhouse on the same farm site;
- ii. There is no potential building site for a replacement farmhouse on the same farm outside the designated floodway;
- iii. Repairs, reconstruction, or improvements to a farmhouse shall not increase the total square footage of encroachment of the existing farmhouse;
- iv. A replacement farmhouse shall not exceed the total square footage of encroachment of the farmhouse it is replacing;
- v. A farmhouse being replaced shall be removed, in its entirety, including foundation, from the floodway within ninety days after occupancy of a new farmhouse;
- vi. For substantial improvements and replacement farmhouses, the elevation of the lowest floor of the improvement and farmhouse respectively, including basement, is a minimum of one foot higher than the BFE;
- vii. New and replacement water supply systems are designed to eliminate or minimize infiltration of flood waters into the system;
- viii. New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters; and,
- ix. All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

b. Substantially Damaged Residences in Floodway.

i. For all substantially damaged residential structures, other than farmhouses, located in a designated floodway, the Floodplain Administrator may make a written request that the Department of Ecology assess the risk of harm to life and property posed by the specific conditions of the floodway. Based on analysis of depth, velocity, flood-related erosion, channel migration, debris load potential, and flood warning capability, the Department of Ecology may exercise best professional judgment in recommending to the local permitting authority repair, replacement, or relocation of a substantially damaged structure consistent with WAC 173-158-076. The property owner shall be responsible for submitting to the local government and the Department of Ecology any information necessary to complete the assessment. Without a favorable recommendation from the department for the repair or replacement of a substantially damaged residential structure located in the regulatory floodway, no repair or replacement is allowed per WAC 173-158-070(1).

ii. Before the repair, replacement, or reconstruction is started, all requirements of the NFIP, the state requirements adopted pursuant to RCW 86.16, and all applicable local regulations must be satisfied. In addition, the following conditions must be met:

- (A). There is no potential safe building location for the replacement residential structure on the same property outside the regulatory floodway.
- (B). A replacement residential structure is a residential structure built as a substitute for a legally existing residential structure of equivalent use and size.
- (C). Repairs, reconstruction, or replacement of a residential structure shall not increase the total square footage of floodway encroachment.
- (D). The elevation of the lowest floor of the substantially damaged or replacement residential structure is a minimum of one foot higher than the BFE.

(E). New and replacement water supply systems are designed to eliminate or minimize infiltration of flood water into the system.

(F). New and replacement sanitary sewerage systems are designed and located to eliminate or minimize infiltration of flood water into the system and discharge from the system into the flood waters.

(G). All other utilities and connections to public utilities are designed, constructed, and located to eliminate or minimize flood damage.

3. All Other Building Standards Apply in the Floodway. If Subsection .050-D-1 is satisfied or construction is allowed pursuant to Subsection .050-D-2, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section .050, Provisions For Flood Hazard Reduction.

E. General Requirements for Other Development. All development, including manmade changes to improved or unimproved real estate for which specific provisions are not specified in this Chapter or the state building codes with adopted amendments and any amendments by the Town, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the encroachment limitations of this Chapter if located in a regulatory floodway;
3. Be anchored to prevent flotation, collapse, or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
4. Be constructed of flood damage-resistant materials;
5. Meet the flood opening requirements of Subsection .050-B-1-e, and
6. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

F. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the BFE shall be provided to all critical facilities to the extent possible.

15.15.060 Variances.

The variance criteria set forth in this Section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the Town of Yacolt to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Base Flood Elevation are so serious that variances from the flood elevation or from other requirements described in this Chapter are quite rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Chapter are more detailed and contain multiple provisions that must be met before

a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

A. Requirements for Variances.

1. A variance can be issued upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations or policies;

2. A variance can be issued for the repair, rehabilitation, or restoration of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;

3. A variance shall only be issued:

a. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;

b. Upon a showing of good and sufficient cause;

c. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant;

d. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section .020 of this Chapter in the definition of "Functionally Dependent Use."

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

5. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the BFE, provided the procedures of Sections .040 and .050 of this Chapter have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variance Criteria. In considering variance applications, the Town Council shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and:

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

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

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the Town;

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

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

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

8. The relationship of the proposed use to the comprehensive plan and floodplain

management program for that area;

9. The safety of access to the property in time of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and,

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical, water system, and streets and bridges.

C. Additional Requirements for the Issuance of a Variance.

1. Any applicant to whom a variance is granted shall be given written notice over the

signature of a Yacolt official stating that:

a. The issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and,

b. Such construction below the BFE increases risks to life and property.

2. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

3. The Town Council shall condition the variance as needed to ensure that the requirements and criteria of this Chapter are met.

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

15.15.070 Standards for Shallow Flooding Areas, (AO Zones)

A. Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In addition to other provisions in this code, the following additional provisions also apply in AO zones:

1. New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement and mechanical equipment) elevated above the highest adjacent grade to the structure, one foot or more above the depth number specified in feet on the community's FIRM (at least two feet above the highest adjacent grade to the structure if no depth number is specified).

2. New construction and substantial improvements of nonresidential structures within AO zones shall either:

a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, one foot or more above* the depth number specified on the FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, be completely flood proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer, or architect as in Subsection .050-B-2-c.

3. Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

4. Recreational vehicles placed on sites within AO zones on the community's FIRM shall either:

a. Be on the site for fewer than 180 consecutive days; or,

b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,

c. Meet the requirements of subsections .070-A-1 and .070-A-3 above and the anchoring requirements for manufactured homes described in Subsection .050-A-1-b.

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Section 5 – Ratification and Confirmation of Prior Acts: All acts taken by Town officers and staff prior to the enactment of this Ordinance that are consistent with and in furtherance of the purpose or intent of YMC 15.15 or this Ordinance are hereby ratified, approved and confirmed by the Town Council.

Section 6 – Effect of Repeal: The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 7 – Savings Clause: All terms of YMC 15.15 shall remain in full force and effect until the Effective Date of this Ordinance.

Section 8 – Codification of Ordinance: Upon the Effective Date of this Ordinance, the Town Clerk is directed to send a copy hereof to Code Publishing Company of Seattle, Washington, so that the provisions of Section 4 of this Ordinance may be promptly reflected in the Yacolt Municipal Code.

Section 9 – Corrections by Town Clerk or Code Reviser: Upon approval of the Town Attorney, the Town Clerk and the code reviser are authorized to make necessary corrections to this Ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering, section/subsection numbering, and references thereto.

Section 10 – Instructions to the Clerk: The Town Clerk shall:

- a). Immediately transmit a copy of this Ordinance to the Washington Department of Ecology, the Washington Department of Commerce, the Federal Emergency Management Agency, and such other agencies as may be required by law;
- b). Cause notice of the adoption of this Ordinance to be published forthwith in the Town's official newspaper pursuant to Section 12 below; and,
- c). Promptly post a copy of this Ordinance on the Town's website for public inspection.

Section 11 – Severability and Construction: If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, or its application to any person or circumstances is held invalid, the remaining portion of this Ordinance shall remain in full force and effect, and the application of the provision to other persons or circumstances shall not be affected. If any provision of this Ordinance is found to be inconsistent with provisions of the Yacolt Municipal Code, this Ordinance is deemed to control.

Section 12 – Effective Date and Publication of Summary: This Ordinance shall take effect immediately upon adoption and publication according to law. Notice of this Ordinance may be provided by publication of the following summary in the Town's official newspaper:

Town of Yacolt - Summary of Ordinance #596

The Town Council of the Town of Yacolt adopted Ordinance #596 at a Regular meeting held pursuant to proper notice on Monday, February 12, 2024. The content of the Ordinance is summarized in its title as follows:

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YACOLT,
WASHINGTON, REPEALING ORDINANCE #593, (INTERIM DEVELOPMENT
REGULATIONS RELATING TO DEVELOPMENT IN SPECIAL FLOOD HAZARD

AREAS, YMC 15.15); REPEALING AND REPLACING YMC 15.15 (FLOOD DAMAGE PREVENTION) TO UPDATE REGULATIONS FOR DEVELOPMENT IN FLOOD HAZARD AREAS AS REQUIRED FOR JURISDICTIONS PARTICIPATING IN THE NATIONAL FLOOD INSURANCE PROGRAM; MAKING FINDINGS OF FACT; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION

The effective date of the Ordinance is February 21, 2024.

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 21st day of February, 2024.
Stephanie Fields, Town Clerk

PASSED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 12th day of February, 2024.

TOWN OF YACOLT

Ian Shealy, Mayor

Attest:

Stephanie Fields, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: _____
Nays: _____
Absent: _____
Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance #596 of the Town of Yacolt, Washington, entitled "AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON, REPEALING ORDINANCE #593, (INTERIM DEVELOPMENT REGULATIONS RELATING TO DEVELOPMENT IN SPECIAL FLOOD HAZARD AREAS, YMC 15.15); REPEALING AND REPLACING YMC 15.15 (FLOOD DAMAGE PREVENTION) TO UPDATE REGULATIONS FOR DEVELOPMENT IN FLOOD HAZARD AREAS AS REQUIRED FOR JURISDICTIONS PARTICIPATING IN THE NATIONAL FLOOD INSURANCE PROGRAM; MAKING FINDINGS OF FACT; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SUMMARY PUBLICATION" as approved according to law by the Town Council on the date therein mentioned. The Ordinance has been published or posted according to law.

Attest:

Stephanie Fields, Town Clerk

Approved: February 12, 2014

Published: February 21, 2024

Effective Date: February 21, 2024

Ordinance Number: 596



Town of Yacolt

Request for Council Action

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

Name: Stephanie Fields, Town Clerk
David W. Ridenour, Town Attorney
Group Name: Staff

Address: 202 W. Cushman St.
P.O. Box 160
Yacolt, WA 98675
Phone: David Ridenour (360) 991-7659

Email Address: david@davidridenourlaw.com
Alt. Phone: Town Clerk (360) 686-3922

ITEM INFORMATION:

Item Title: Ordinance #596 - Adoption of permanent regulations for Flood Damage Prevention Program, (YMC 15.15.)

Proposed Meeting Date: February 12, 2024.

Action Requested of Council: Review and approve Ordinance #596 to replace YMC 15.15 with a new permanent Flood Damage Prevention Program.

Proposed Motion: "I move that the Council approve Ordinance #596 as presented at the hearing which just took place."

Summary/ Background: The Town of Yacolt began working with the Federal Emergency Management Agency (FEMA) in 2023 to update the Town's Flood Damage Prevention Program. (Yacolt's Flood Damage Prevention Program is codified at YMC 15.15.)

FEMA wanted the Town to update its development regulations for Flood Zones before November 2, 2023 in order to comply with new Federal laws. By meeting that deadline, the Town's participation in the National Flood Insurance Program (NFIP) would not be interrupted.

The Town Council tentatively approved new Codes for Yacolt's Flood Damage Prevention Program at special meeting held on October 16, 2023. The proposed Codes were submitted to the Department of Commerce the next day for expedited review.

The Town did not receive State agency approvals in time to meet the November 2 deadline, so the Town Council approved the new Codes as *interim* regulations in Ordinance #593 at a special meeting held on October 23, 2023. The interim regulations were submitted to the Department of Commerce on October 25, 2023 for expedited review. The adoption of interim regulations satisfied FEMA's November 2, 2023 deadline.

The Town's requests for expedited review by the Department of Commerce were not granted. State agency review of the interim and proposed permanent regulations took the standard 60 days which ended on December 24, 2023. The State agencies ultimately had no objection to the Town's proposed new regulations or to the interim regulations in Ordinance #593.

In January, the Town Attorney confirmed that the development regulations had been accepted by all State agencies. Staff then scheduled the matter for a public hearing and Council review during the next available Council meeting. A Notice of Public Hearing was published in the Reflector on January 24, 2024, and the public hearing took place during the Council's regular February meeting. At the public hearing and before, members of the public were allowed to submit written and verbal testimony about the Flood Damage Prevention regulations.

Staff has drafted proposed Ordinance #596 to replace the interim temporary regulations in Ordinance #593. The new development regulations in Ordinance #596 are identical to what the Council approved on an interim basis in Ordinance #593. The public hearing is to be followed by the Council's consideration of Ordinance #596.

Staff Contact(s):

Stephanie Fields, Town Clerk.
David W. Ridenour, Town Attorney.



Town of Yacolt

Request for Council Action

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

Name:	Stephanie Fields, Town Clerk David W. Ridenour, Town Attorney	Group Name:	Staff
Address:	202 W. Cushman St. P.O. Box 160 Yacolt, WA 98675	Phone:	Town Clerk (360) 686-3922 David Ridenour (360) 906-1556
Email Address:	clerk@townofyacolt.com david@davidridenourlaw.com	Alt. Phone:	

ITEM INFORMATION:

Item Title: Railroad Avenue Subdivision: Status Report.

Proposed Meeting Date: February 12, 2024.

Action Requested of Council: None.

Proposed Motion: None.

Summary/ Background: The Council held a special meeting on Monday, January 22, 2024 to review documents for the Railroad Avenue Subdivision. The Council approved all proposed documents and agreed to conditions for the Final Plat of the subdivision to be recorded. This agenda item provides a status report on the project.

During the special meeting, the Council generally approved all documents and agreements associated with the Subdivision, with the exception of the CC&Rs for the Homeowner's Association. The Council directed two changes to the HOA's CC&Rs as follows: 1). That "Section 4.8 – Fire and Fire Pits", be revised by deleting the last sentence that prohibited the use of firecrackers or fireworks of any kind within the Subdivision; and 2). That "Section 12.8 – Duration", be revised by replacing the words "Clark County" at the end of the Section with the words "the Town of Yacolt".

Staff revised Resolution #622 prior to its execution to reflect these directions from the Council.

The HOA CC&Rs were revised pursuant to the Council’s direction, and now read as follows:

4.8 Fire and Fire Pits. There shall be no open fire or open flame allowed anywhere within the Subdivision for any purpose except within a professionally crafted person-use recreation fire pit, which is subject to the permitting authority. Safe use of fireworks as allowed by local ordinances is permitted.

Section 12.8 – Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of 35 years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of 10 years, unless rescinded by a vote of at least 90% of the Owners. However, amendments, which do not constitute rescission of the planned development, may be adopted as provided in Section 12.9 below. Additionally, any such rescission that affects the Common Area shall require the prior written consent of the Town of Yacolt.

The performance bonds for project completion and maintenance of the stormwater facilities were presented and approved by the Town Attorney on Thursday, January 25, 2024.

The Final Plat and all related documents were recorded on Friday January 26, 2024.

The Town has already received and begun to process building permit applications for lots located in the subdivision.

Staff will be available to answer any questions, and can provide final signed and recorded versions of the various documents and agreements if desired by the Council.

Attachments:

None.

Staff Contact(s):

Stephanie Fields, Town Clerk.
Devin Jackson, Jackson Civil, Town Engineer.
David W. Ridenour, Town Attorney.



Town of Yacolt

Request for Council Action

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

Name:	Stephanie Fields, Town Clerk David W. Ridenour, Town Attorney	Group Name:	Staff
Address:	202 W. Cushman St. P.O. Box 160 Yacolt, WA 98675	Phone:	Town Clerk (360) 686-3922 David Ridenour (360) 906-1556
Email Address:	clerk@townofyacolt.com david@davidridenourlaw.com	Alt. Phone:	

ITEM INFORMATION:

Item Title:	Review Terms of Counter-Offer to Town's Offer to Purchase Real Estate from Sellers Charlie and Lucky Witt.
Proposed Meeting Date:	February 12, 2024.
Action Requested of Council:	Consider request by the Property Sellers to revise the proposed terms of sale. Direct staff on the Town's response to the counter-offer, or take other actions as desired.
Proposed Motion:	None.
Summary/ Background:	<p>Yacolt made an offer to purchase real estate owned by Charlie and Lucky Witt in November of 2023. Charlie Witt met with representatives of the Town including Mayor Shealy on January 25, 2024 to discuss his proposed changes to the terms and conditions of the sale. A summary of those proposed changes is provided below.</p> <ol style="list-style-type: none">1. Page 1, Section 3 – <u>Property to be Sold</u>. Clarify that lumber currently stored on the Property belongs to the Sellers and will be removed by the Sellers.2. Page 4, Section 10.5 – <u>Contingent Conditions</u>. Add language to clarify that all personal property and materials left behind after Closing may be considered abandoned by the Sellers, and if desired,

add a grace period after Closing for the Sellers to remove their personal property.

3. Page 4, Section 12 – Sellers’ Representations and Warranties.

Add a representation from the Sellers about the possible existence of a hand-dug well behind the main building on the property, at or near the East property line.

4. Page 5, Section 15 – Closing Costs and Proration. A question was raised regarding the impact of the sale on the Sellers’ participation in the Agricultural Land Program which has provided significant tax benefits to the Sellers over the years. The Sellers want the Town to be responsible for any tax penalty or costs that result from the sale. The parties therefore need to understand what financial impact the sale would have on the Sellers’ participation in the Agricultural Land Program over the years. As a related question, the parties want to understand how that financial impact would be affected by the boundary line adjustment.

(Note: No work has been done with the County to estimate the tax cost to the Sellers of this transaction. As a starting point, it appears that additional taxes, interest and penalties would be owed by the Sellers if the property’s participation in the Agricultural Land Program terminates upon Closing. The Washington Administrative Code indicates that the Sellers would owe the taxes that would have been charged over the previous seven years had there been no special treatment of the land as ‘ag-land’, less the taxes actually paid, plus additional interest and potential penalties on the ‘unpaid’ late taxes:

WAC 458-30-300 - Additional tax—Withdrawal or removal from classification. ...

(5) Amount of additional tax, interest, and penalty. The amount of additional tax, interest, and penalty will be determined as follows:

(a) The amount of *additional tax* is equal to the difference between the property tax paid on the land because of its classified status and the property tax that would have been paid on the land based on its true and fair value *for the seven tax years preceding the year of withdrawal or removal*, and the taxes owed for the balance of the current tax year;

(b) The amount of *interest*, calculated at the same statutory rate charged on *delinquent property taxes* specified in RCW 84.56.020, is based upon the amount of additional tax determined under (a) of this subsection, *starting from the*

date the additional tax could have been paid without interest until the date the tax is paid; and

(c) A penalty amounting to twenty percent of the sum of the additional tax and interest. A penalty is not imposed when the land has been classified for at least ten assessment years at the time it is withdrawn from classification and the owner submitted a request to withdraw classification to the assessor.

(d) If additional tax, interest, and penalty are not imposed because the removal meets an exception in subsection (7) of this rule, the assessor still calculates the prorated taxes from the date of removal through December 31st of the year the removal occurred.

(The calculation of the exact amount that would be owed in this case is complicated further by the fact that only a portion of the existing parcels are being purchased, following a boundary line adjustment that divides the two parcels involved.)

5. General: The parties wish to confirm with Clark County whether the boundary line adjustment would result in a legal lot determination, and whether the County would allow the Town's proposed use of the property as a shop and equipment storage area for the Public Works Department.

6. General: The Sellers want to condition the sale of the walking trail easement on there being no negative impact on the Sellers' ability to subdivide that property into a desired number of residential lots on the future. The parties would add a paragraph giving the Sellers time to research the issue and cancel the sale if not satisfied with the results of their due diligence.

Attachments:

Real Estate Purchase and Sale Agreement, (proposed – unsigned).

Staff Contact(s):

Stephanie Fields, Town Clerk.

David W. Ridenour, Town Attorney.

REAL ESTATE PURCHASE AND SALE AGREEMENT

1. **Effective Date.** The Effective Date of this Agreement shall be the date that all Parties have signed the Agreement.
2. **Parties.** CHARLIE J. WITT, a married person as his separate property, and LUCKY S. WITT, a single person, hereinafter collectively referred to as "Sellers"
8314 N.E. 280th Circle
Battle Ground, WA 98604
Phone: (360) 909-2372
E-Mail: wascaly0709@yahoo.com
- and

THE TOWN OF YACOLT, a Washington municipal corporation,
hereinafter referred to as "Purchaser"
202 W. Cushman Street
P.O. Box 160
Yacolt, WA 98675
Phone: (360) 686-3922
E-Mail: clerk@townofyacolt.com

3. **Property to be Sold.** The Purchaser hereby agrees to purchase, and the Sellers hereby agree to sell the following described real estate located in Clark County, State of Washington, (together the "Property"):

- 3.1. Parcel A. See Legal Description attached as Exhibit A.
- 3.2. Parcel B. See Legal Description attached as Exhibit B.

The Parties reserve the right to modify and/or supplement these legal descriptions prior to Closing. The Parties hereby authorize Escrow to correct any errors in the legal descriptions.

Parcel A shall include all irrigation, plumbing, ventilating, cooling and heating fixtures and equipment, water heaters, attached electrical fixtures, light bulbs, windows, screens, all shrubs and trees permanently planted in the Earth, all mechanical systems, fixtures, machinery and equipment comprising a part of or attached to or located upon or within Parcel A, and all fixtures not excepted herein are to be left on Parcel A as part of the Property to be purchased, EXCEPT: Any personal property, building materials, vehicles, abandoned/junk vehicles and equipment, and _____, which shall be removed by the Sellers prior to Closing.

4. **Purchase Price and Payments.** The total purchase price is THREE HUNDRED AND SEVENTY FIVE THOUSAND AND NO/100 DOLLARS, (\$375,000.00), which shall be paid as follows:

- 4.1. Down Payment. A sum equal to 50% of the total Purchase Price, (\$187,500.00), shall be paid as a down payment at Closing.
- 4.2. Payment(s). The balance of the total Purchase Price shall be paid in one installment of \$187,500.00 at any time during the calendar month of January in the calendar year

following the year during which this Agreement is Closed. (Example, if this Agreement closes in 2023, the balance shall be paid during January of 2024. If this Agreement closes in 2024, the balance shall be paid during January of 2025.)

- 4.3. Interest. No interest shall accrue on the balance of the total purchase price that is payable after Closing.
- 4.4. Pre-Payment. The Purchaser shall not be entitled to prepay any or all sums due under this Agreement.
- 4.5. Late Charge. In the event the Purchaser fails to make any payment on the purchase price within forty-five (45) days of its due date, then there shall be added to such payment a late charge of five percent (5%) of the delinquent payment. Such late charge shall be in addition to all other remedies available to the Sellers and the first amounts received from Purchasers after such late charge is due shall be applied to the late charge.
- 4.6. Collection Escrow: All payments shall be made to a collection escrow, the costs of which shall be shared equally by the Purchaser and the Sellers. The collection escrow shall be maintained at Clark County Title Company or such other institution as determined by the Purchaser. When the Collection Escrow is established, the Sellers shall provide a signed Full Reconveyance of the Deed of Trust described in Paragraph 9.1. The Collection Escrow shall be instructed to release the Full Reconveyance to the Purchaser upon full satisfaction of the balance due under this Agreement.

5. Security. The Purchaser's obligation to pay the balance of the Purchase Price shall be described in a Promissory Note in substantially the form of Exhibit C attached hereto, and secured by a Deed of Trust on Parcel A in substantially the form of Exhibit D attached hereto.

6. Earnest Money. Within one (1) week of mutual execution of this Agreement, the Purchaser shall deposit the sum of ONE THOUSAND AND NO/100 DOLLARS, (\$1,000.00), (the "Earnest Money"), in the form of a check payable to Clark County Title Company, (the "Closing Agent"), Downtown Branch, at 1400 Washington Street, Suite 100, Vancouver, Washington, 98660, Phone (360) 694-4722, ("Escrow"), paid as earnest money in part payment of the Purchase Price for the Property. Upon Closing the funds shall be applied toward Purchaser's obligations herein. If this transaction does not close because of an unfilled condition or other reason not the fault of Purchaser, the earnest money shall be refunded to Purchaser. If the sale fails to close because of Purchaser's default, then this sale shall terminate and Seller may retain the earnest money as liquidated damages.

7. Title. Title to the Property shall be insurable, marketable and indefeasible. Title to the Property shall be conveyed free and clear of all liens and encumbrances. Rights, reservations, covenants, conditions, and restrictions presently of record, easements, and encroachments, not materially affecting the value of the Property or unduly interfering with Purchaser's intended use of the Property shall not cause the title to be considered unmarketable. Purchaser shall conclusively be deemed to have accepted the condition of title unless Sellers receive notice of Purchaser's objections within 15 days after the preliminary commitment for title insurance is received by or made available to Purchaser. Encumbrances to be discharged by Sellers shall be paid by Sellers on or before Closing.

8. Title Insurance. The Sellers authorize the Closing Agent, at Sellers' expense, to apply for a standard form owner's ALTA policy of title insurance upon acceptance of this Agreement, to be issued by Clark County Title Company. The title policy shall contain no exceptions other than those contained in said standard form and those not inconsistent with this Agreement. If title is not so insurable and cannot

be made so insurable prior to Closing, Purchaser may elect either to waive such encumbrances or defects, or to terminate this Agreement and receive a refund of the earnest money. Purchaser acknowledges that a standard form of title insurance does not insure the location of boundaries and that an extended form of insurance is available at additional costs to Purchaser.

9. Conveyances.

- 9.1. Parcel A. Title to Parcel A shall be conveyed by Statutory Warranty Deed in substantially the form of Exhibit E attached hereto, free of encumbrances and defects except those included in this Agreement or otherwise acceptable to Purchaser. If Parcel A is subject to an existing contract, mortgage, deed of trust or other encumbrance, which Sellers are to continue to pay, Sellers agree to obtain clear title to Parcel A at Sellers' sole cost and expense, prior to Closing.
- 9.2. Parcel B. Title to Parcel B shall be conveyed by Grant or Deed in substantially the form of Exhibit F attached hereto.

10. Contingent Conditions. The enforceability of this Agreement by the Sellers and the obligation of the Purchaser to close escrow is subject to the occurrence or waiver of each of the following conditions prior to the date of closing:

- 10.1. The Property passing, to Purchaser's satisfaction and in Purchaser's full discretion, an inspection or inspections of the Property's condition by a professional or professionals of Purchaser's choice at Purchaser's expense within thirty (30) days of the Effective Date of this Agreement. If this condition is not accepted or waived by Purchaser by written notice within the time provided, this Agreement shall terminate, all Earnest Money shall be refunded, and all of the rights, duties and obligations of the Parties shall, except as specifically provided otherwise, be terminated.

The Purchaser shall have full access to the Property, and will restore the Property to the same condition as existed before any inspection or test. Purchaser shall not allow any liens to attach to the Property. Purchaser shall indemnify and hold Seller harmless from any and all claims or demands which arise from the actions of the Purchaser or its agents on the Property. This indemnification and hold harmless obligation shall survive closing or earlier termination of this Agreement.

- 10.2. The Purchaser's satisfaction with an appraisal of the Property to be obtained at Purchaser's expense within thirty (30) days of the Effective Date of this Agreement. If this appraisal condition is not accepted or waived by Purchaser by written notice within the time provided, this Agreement shall terminate, all Earnest Money shall be refunded, and all of the rights, duties and obligations of the Parties shall, except as specifically provided otherwise, be terminated.
- 10.3. The approval of a Boundary Line Adjustment of Sellers' real estate by Clark County to create Parcel A as described herein. Sellers agree that the Boundary Line Adjustment process shall be at Sellers' expense, and shall be pursued by Sellers' using their reasonable best efforts.
- 10.4. The Purchaser shall confirm to Purchaser's satisfaction the location of the Property boundary lines within five (5) business days of notice to the Purchaser of the final acceptance of the Boundary Line Adjustment application by Clark County.

- 10.5. The Sellers agree to remove all personal property located on the Property prior to Closing, including without limitation all building materials, vehicles, and abandoned/junk vehicles and equipment.
- 10.6. Purchaser Documents. In the event that this Agreement is terminated because the conditions for the Purchaser's approval of inspections and an appraisal are not waived or satisfied, then Purchaser shall deliver to Sellers all written reports and studies relating to the Property prepared by any third party for the Purchaser.

If any of the above conditions are not satisfied or waived by Purchaser by written notice within the time provided, Sellers, without prejudice to any other rights or remedies herein provided, may withdraw from this transaction, be released from all liability hereunder by giving written notice to the Purchaser and the Escrow/Closing Agent, and Purchaser shall receive an immediate refund of its earnest money. The Parties' agreement to close this transaction constitutes their approval or waiver of all such conditions if they have not been approved or waived earlier.

11. Purchaser's Representations. Subject to the Contingent Conditions described above, the Purchaser represents to Sellers that each of the following is true as of the date hereof and shall be true as of Closing and these representations shall survive closing:

- 11.1. The Purchaser represents that Purchaser has sufficient funds available to close this sale in accordance with this Agreement, and is not relying on any contingent source of funds. Purchaser is authorized to enter into this Agreement and to purchase the subject Property.
- 11.2. The Purchaser has inspected the Property and have found the same to be to their satisfaction. The Purchaser agrees that no promises, representations, statements, or warranties, expressed or implied, shall be binding on the Sellers unless expressly contained herein. The Purchaser expressly acknowledges that it has placed no reliance whatsoever upon any representation not set forth in this Agreement.
- 11.3. The Purchaser agrees that it has had an opportunity to review all federal, state and local regulations, including but not limited to zoning regulations and standards affecting various permit applications, and the effect such regulations and requirements may have upon the Property, including the effect of the same on any prospective and intended use or uses. The Purchaser further acknowledges that Sellers have made no representations concerning any such regulations and standards.

12. Sellers' Representations and Warranties. Sellers represent and warrant to Purchaser that each of the following is true as of the date hereof and shall be true as of Closing and these representations and warranties shall survive closing:

- 12.1. The Sellers have received no written notices of violation of any laws, codes, rules or regulations applicable to the Property.
- 12.2. No environmentally significant amount of hazardous substances are currently being generated, stored, or disposed of, on under, or in the Property, and that neither Sellers nor any other person or entity has ever caused or permitted an environmentally significant amount of hazardous substances to be generated, placed, held, located or disposed of on, under, or in the Property.

- 12.3. There are no encroachments onto the Property.
- 12.4. Sellers represent there are no underground fuel tanks located on the Property except as disclosed in writing to the Purchaser.
- 12.5. Sellers represent that the Property is not currently connected to a septic system. Sellers represent that the Property includes no current or abandoned well, cistern, septic system, or other utilities fixtures or equipment with the exception of electrical fixtures and equipment that is provided or can be provided by Clark Public Utilities over the Southern portion of the Property.
- 12.6. Sellers are authorized to enter into this Agreement and to sell the subject Property. Sellers are the sole legal fee owners of the Property, and are not holding fee title as a nominee for any other person or entity.
- 12.7. There is no pending or threatened litigation that would adversely affect Purchaser's ownership of the Property after Closing.
- 12.8. There are no covenants, restrictions, conditions, or contractual obligations of Sellers that will adversely affect Purchaser's ownership after Closing.
- 12.9. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborers' or materialmen's liens or claims might arise.
- 12.10. The covenants, agreements, representations and warranties made herein shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.
13. **Property Condition.** Sellers agree to maintain the Property in its present condition until the time Purchaser is entitled to possession.
14. **Closing.** This sale shall be closed as soon as the conditions described herein can be satisfied and the Closing Agent is able to close the sale pursuant to this Agreement, but in any event no later than February 29, 2024, without the written agreement of the Parties. "Closing" means the date on which all documents are recorded and the sale proceeds are available for disbursement to Sellers. Purchaser and Sellers shall deposit with Closing Agent all documents and monies required to complete this sale in accordance with this Agreement.
15. **Closing Costs and Proration.** Sellers shall pay any required transfer fees and taxes on this transaction and the cost of a standard owner's policy of title insurance for each Parcel of the Property. Sellers and Purchaser shall each pay one-half (1/2) of the escrow fees for Closing. Any special assessment costs, back taxes or penalties for removal of property tax deferral shall be paid by Sellers. Real estate taxes assessed in the usual course, assessments, interest, water, utility charges, or rents on the Property shall be prorated as of the date of Closing.
16. **Possession.** The Purchaser shall be entitled to possession upon Closing.
17. **Assignment.** The Purchaser's rights under this Agreement may not be assigned without Sellers' prior written consent.

18. **Agency Disclosure.** Each party represents and warrants that it has not dealt with any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement, and insofar as it knows, no broker or other person is entitled to any commission, charge or finder's fee in connection with the transactions contemplated by this Agreement. Each party agrees to indemnify, defend and hold the other party harmless against any loss, liability, damage, cost, claim or expense, including interest, penalties and reasonable attorneys' fees, that that party shall incur or suffer by reason or a breach by the other party of the representations and warranty set forth above.
19. **FIRPTA Compliance.** Sellers and Purchaser agree to comply with the Foreign Investment in Real Property Tax Act (FIRPTA), if applicable.
20. **Notices.** Unless otherwise specified in this Agreement, any and all notices required or permitted to be given under this Agreement must be given in writing. Notices to Sellers must be signed by the Purchaser and shall be deemed to be given when actually received by or at the following address of Seller Charlie Witt, 8314 N.E. 280th Circle, Battle Ground, WA 98604. Notices to Purchaser must be signed by at least one Seller and shall be deemed to be given when actually received by or at the following address of Purchaser's Mayor or Town Clerk, at 202 W. Cushman Street, P.O. Box 160, Yacolt, WA 98675. Any party hereto may specify a different address for the giving of notices by notifying the other party in writing of the new address.
21. **Computation Of Time.** Unless otherwise specified herein, any period of time specifically in this Agreement shall expire at 5:00 p.m. of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. of the next business day. Any specific period of 5 days or less shall include business days only.
22. **Default/Termination.** If this Agreement is terminated for any reason, any costs authorized under this Agreement to be advanced from the earnest money deposit shall be deducted before the remaining earnest money is refunded to Purchaser or forfeited to Sellers. If a dispute should arise regarding the disbursement of any earnest money, the party holding the earnest money may interplead the funds into court.

If the conditions to Purchaser's obligations to close this transaction are satisfied or waived by Purchaser and Purchaser nevertheless fails, through no fault of Sellers, to close the purchase of the Property, Sellers' sole remedy shall be to retain the earnest money paid by Purchaser. In the event Sellers fail, through no fault of Purchaser, to close the sale of the Property, Purchaser shall be entitled to pursue any remedies available at law or in equity, including without limitation, the remedy of specific performance.

Town of Yacolt
By Katelyn J. Listek, Mayor

Charlie J. Witt

Lucky S. Witt

23. **Time Is of the Essence.** Time is of the essence of each and every provision of this Agreement.
24. **Legal And Tax Implications.** This Agreement affects your legal rights and obligations and may have tax implications. If you have any questions regarding this Agreement and any addendum, exhibits, attachments, or other related documents, you should consult an attorney or tax advisor.

- 25. Disclosure Of Representation.** It is understood that this Agreement has been prepared by David W. Ridenour, Attorney at Law, for the benefit of the Purchaser, and by Peter K. Jackson with the law firm of Jackson, Jackson & Kurtz, for the benefit of the Sellers.
- 26. Agreement Survives Closing.** All agreements and warranties and limitations of warranties contained herein shall continue to be binding after the Closing of this transaction.
- 27. Number And Gender.** It is agreed as used herein the singular includes the plural and the masculine includes the feminine and vice versa as the Agreement may require.
- 28. General Provisions.**
- 28.1. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Any litigation arising out of or in connection with this Agreement shall be conducted in the Superior Court of Clark County, Washington.
- 28.2. Should either party bring suit to enforce or interpret this Agreement, or utilize legal counsel to enforce or interpret this Agreement during any dispute, the substantially prevailing party in such lawsuit and/or dispute shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit and/or dispute, including those for appeal.
- 28.3. Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the Parties hereto.
- 28.4. No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the Parties hereto.
- 28.5. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns.
- 28.6. This Agreement constitutes the entire understanding and agreement of the Parties with respect to is subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force of effect.
- 28.7. Failure of either party to insist upon strict performance of the other party's obligations hereunder shall not be construed as a waiver of strict performance thereafter of all of the other party's obligations hereunder and shall not prejudice any remedies as provided herein.
- 28.8. Severability: In the event that any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

- 28.9. Each party intends that this Agreement in all respects shall be deemed and construed to be equally and mutually prepared by all Parties, and it is hereby expressly agreed that any uncertainty or ambiguity shall not be construed for or against any party.
- 28.10. The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.
- 28.11. **As-Is Clause.** Sellers are selling the Property as is, where is, and with all faults. Purchaser acknowledges that it has and will prior to Closing examine and investigate to its full satisfaction all facts, circumstances and matters relating to the Property or otherwise relevant to its purchase of the Property and that it is acquiring the Property based exclusively on such independent investigation. Purchaser has not relied on any representations made by Sellers other than those specified in this Agreement. Except as otherwise set forth in this Agreement, the Sellers disclaim all warranties, expressed or implied, as to, without limitation; the quality, habitability, merchantability, and adequacy or physical condition of the Property including, without limitation, structural elements, foundation, roof, appurtenances, access, parking, electrical, mechanical, HVAC, plumbing, sewage, and utility systems; the lot size or boundaries lines of the Property, the size of any structure on the Property; the condition of the soil, subsoil, groundwater or other environmental matters affecting the Property; the compliance of the Property with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental authority; the presence or absence of Hazardous Substances on, in, under, above or about the Property or any adjoining or neighboring property; and all matters that would be revealed by an ALTA as-built survey, a physical inspection or an environmental site assessment of the Property.
- 28.12. Each person signing this Agreement warrants that they have authority to sign this Agreement and to bind the party for which they are signing.
- 28.13. This Agreement may be signed in counter parts and through electronic or facsimile signatures and shall be binding upon execution by all parties.
- 28.14. **Notice to Escrow Agent:** Copies of the Preliminary Title Commitment and all proposed Closing documents shall be provided to all Parties set out in Paragraph 2.
- 29. Exhibits.** Any exhibits identified herein and attached hereto are a part of this Agreement. Any exhibits that are not included with this initial signed Agreement are to be added to the Agreement prior to Closing subject to the agreement of the Parties in the terms of such exhibits.
- 29.1. Exhibit A: Legal Description of Parcel A, (11.31 acres to be created through a boundary line adjustment of Sellers' property).
- 29.2. Exhibit B: Legal Description of Parcel B, (approximately 10-foot x 605 foot easement for walking trail and non-motorized vehicles).
- 29.3. Exhibit C: Promissory Note, (described in Paragraph 5).
- 29.4. Exhibit D: Deed of Trust, (described in Paragraph 5).

- 29.5. Exhibit E: Statutory Warranty Deed, (for Parcel A, described in Paragraph 9.1).
- 29.6. Exhibit F: Grant of Easement / Deed for Easement, (for Parcel B, described in Paragraph 9.2).

IN WITNESS WHEREOF, the Purchaser or its agent and the Sellers each hereunto sets his/her hand.

Town of Yacolt
(Purchaser)

By: Katelyn J. Listek, Mayor

Date

Attest:

Stephanie Fields, Town Clerk

Date

Purchaser's Address: 202 W. Cushman Street
P.O. Box 160
Yacolt, WA 98675
Purchaser's Phone: (360) 686-3922

On this date, November _____, 2023, we hereby approve and accept the sale set forth in the above Agreement and agree to carry out all the terms thereof on the part of the Sellers.

Charlie J. Witt and Lucky S. Witt
(Sellers)

By: Charlie J. Witt

Date

Address: 8314 N.E. 280th Circle
Battle Ground, WA 98604
Phone: Phone: (360) 909-2372
E-Mail: wascaly0709@yahoo.com

By: Lucky S. Witt

Date

Address: _____

Phone: _____
E-mail: _____

EXHIBIT "A"
LEGAL DESCRIPTION
PORTION OF TAX LOT 8 & 57

A portion of the Northwest quarter of the Southeast quarter of Section 2, Township 4 North, Range 3 East of the Willamette Meridian, more particularly described as follows;

Commencing at the East quarter corner of Section 2, Township 4 North, Range 3 East of the Willamette Meridian, Clark County, Washington;

Thence North $87^{\circ}44'21''$ West along the north line of the Southeast quarter of section 2, for a distance of 1328.19 feet to the **True Point of Beginning**, said point being the Southeast corner of the Witts Farm Subdivision recorded in plat Book 311 Page 296, records of Clark County Washington;

Thence, along the South line of said Subdivision, North $87^{\circ}44'21''$ West, for a distance of 671.91 feet, to the Northeast corner of Yacolt City Cemetery as shown on that record of survey recorded in Book 6 of surveys, Page 34, records of Clark County, Washington;

Thence, leaving said South line, along the East line of said Cemetery, South $2^{\circ}15'39''$ West, for a distance of 265.30 feet to the Southeast corner thereof;

Thence, along the South line of said cemetery, North $87^{\circ}44'21''$ West, for a distance of 265.95 feet to the easterly right of way line of the Lewis and Clark Railroad;

Thence, along said easterly right of way line, South $23^{\circ}03'19''$ East, for a distance of 481.08 feet;

Thence, leaving said easterly right-of-way line, North $81^{\circ}16'41''$ East, for a distance of 757.57 feet to the East line of the Northwest quarter of the Southeast quarter of said Section 2;

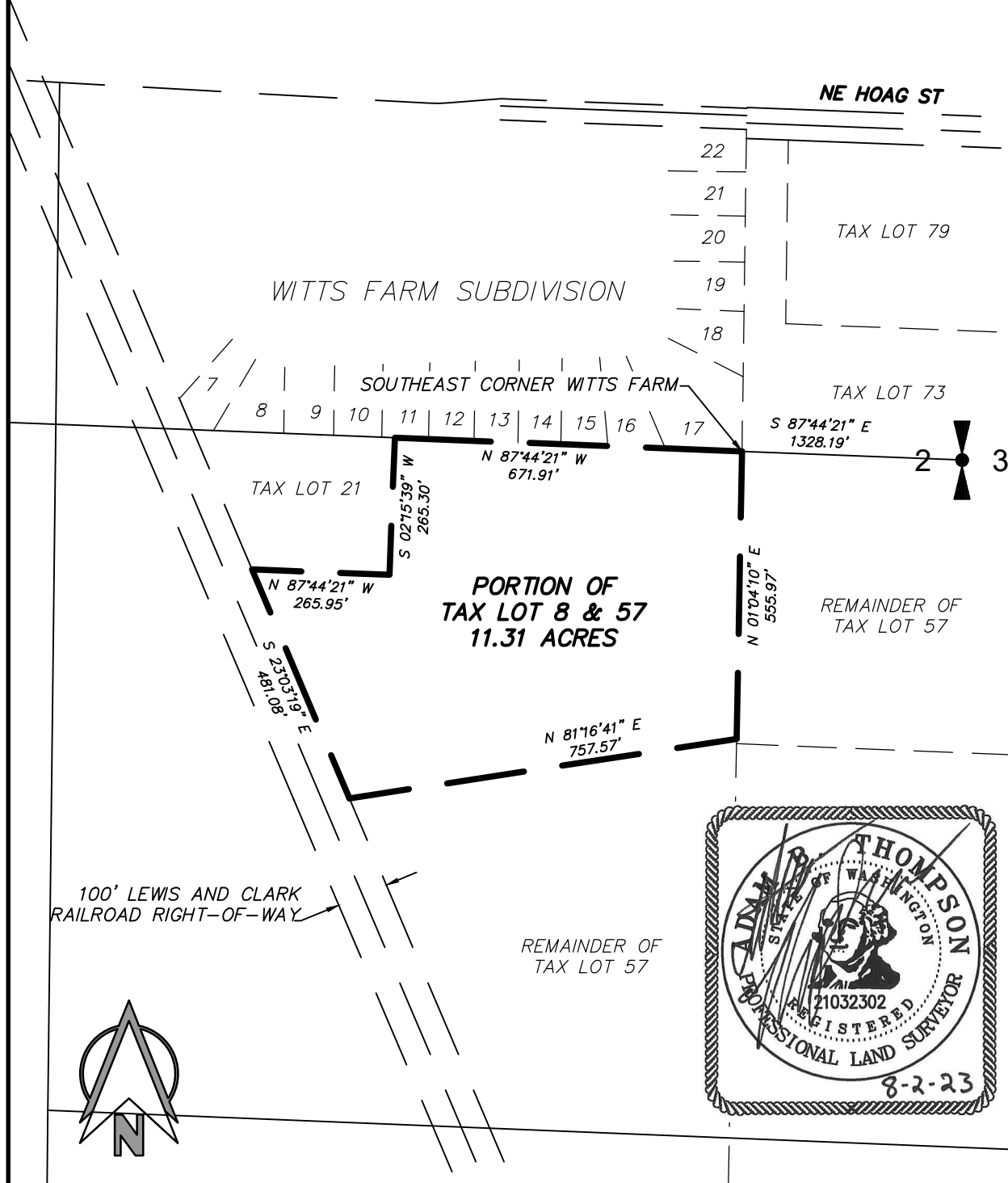
Thence along said East line, North $1^{\circ}04'10''$ East, for a distance of 555.97 feet, to the True Point of Beginning.

Containing 11.31 more or less acres.

Subject to and Together with Public roads, Easements and Restrictions of record.



EXHIBIT "A"



PLS ENGINEERING	SHEET 1 OF 1 FOR LEGAL DESCRIPTION LOCATED IN THE SE 1/4 OF SECTION 2, T.4 N., R. 3 E., W.M. CLARK COUNTY, WASHINGTON		SCALE: <u>NTS</u> JOB NO: <u>3499</u> DATE: <u>8-2-2023</u> DWG FILE: <u>3499L1.dwg</u> DRAWN BY: <u>ABT</u>
Engineering - Surveying - Planning 604 W. Evergreen Blvd., Vancouver, WA 98660 PH: (360) 944-6519 Fax: (360) 944-6539			

EXHIBIT "B"

Legal Description for Access Easement

Being in a portion of the Southeast One Quarter of the Northeast One Quarter and the Northeast One Quarter of the Southeast One Quarter of Section 2, Township 4 North, Range 3 East of the Willamette Meridian, City of Yacolt, Clark County, Washington, more particularly described as follows:

Beginning at the Southeast corner of "Witts Farm Subdivision" recorded in plat Book 311, Page 296 Clark County auditor's records;

Thence along the East line of said subdivision North $00^{\circ}48'31''$ East, for a distance of 605.09 feet to a point on the Southerly right-of-way line of E Hoag Street;

Thence along said Southerly right-of-way line South $87^{\circ}48'53''$ East, for a distance of 10.00 feet;

Thence leaving said Southerly right-of-way line South $00^{\circ}48'31''$ West, for a distance of 605.10 feet to a point on the South line of the Northeast One Quarter of Section 2;

Thence continuing South $00^{\circ}48'31''$ West, for a distance of 10.00 feet;

Thence North $87^{\circ}44'21''$ West, for a distance of 10.05 feet;

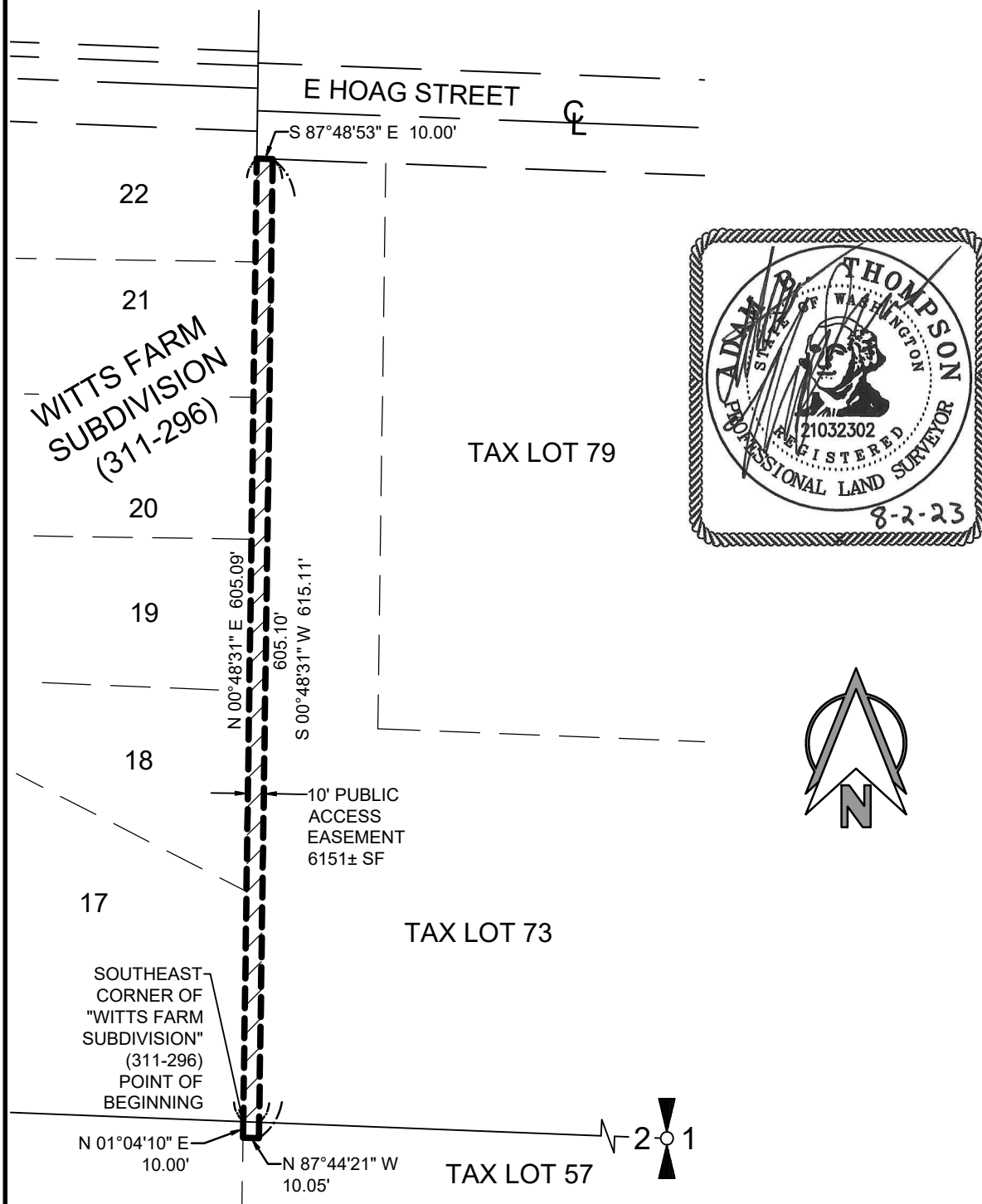
Thence North $01^{\circ}04'10''$ East, for a distance of 10.00 feet to the **Point of Beginning**;

Containing 6,151 more or less square feet.

Subject to and Together with Public roads, Easements and Restrictions of record.



EXHIBIT "B"



PLS ENGINEERING

Engineering - Surveying - Planning
604 W. Evergreen Blvd., Vancouver, WA 98660
PH: (360) 944-6519 Fax: (360) 944-6539

FOR A PUBLIC ACCESS EASEMENT LOCATED
IN THE SE 1/4 OF THE NE 1/4 AND
THE NE 1/4 OF SE 1/4 OF SECTION 2
T. 4 N., R. 3 E., W.M.
CITY OF YACOLT
CLARK COUNTY, WASHINGTON

SCALE: NTS
JOB NO: 3499
DATE: 08-02-2023
DWG FILE: 3499L2.dwg
DRAWN BY: ABT



Town of Yacolt

Request for Council Action

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

Name: Stephanie Fields, Town Clerk
David W. Ridenour, Town Attorney

Group Name: Staff

Address: 202 W. Cushman St.
P.O. Box 160
Yacolt, WA 98675

Phone: Town Clerk (360) 686-3922
David Ridenour (360) 906-1556

Email Address: clerk@townofyacolt.com
david@davidridenourlaw.com

Alt. Phone:

ITEM INFORMATION:

Item Title: **Appointing an Agent for the Receipt of Claims Against the Town, (Proposed Resolution #623).**

Proposed Meeting Date: February 12, 2024.

Action Requested of Council: Review proposed Resolution #623 appointing the Town Clerk as the Town's Agent for receiving tort claims against the Town.

Proposed Motion: To Approve: "I move that the Council approve Resolution #623 as presented."

Summary/ Background: Government agencies generally enjoy sovereign immunity from claims for damages. The State of Washington has long held that government agencies should be responsible for certain damage claims, and therefore waived sovereign immunity in RCW 4.96, (copied below).

The statute creates specific procedures that claimants must follow before suing a government agency such as the Town. The statute also imposes requirements on the government agencies themselves, to provide claim forms and other information helpful to potential claimants.

If claimants fail to follow the rules, certain defenses become available to the government agency. If the government agency fails to follow the rules, those defenses can be lost.

Resolution #623 would appoint the Yacolt Town Clerk as the Town's agent for the receipt of tort claims under the statute. The Resolution must be recorded with the Clark County Auditor's Office in order to satisfy the requirements of the statute.

The Town's current Standard Tort Claim Form and Instructions are attached for general reference.

Attachments: RCW 4.96, (below)
Resolution #623, (Proposed).
Yacolt's Standard Tort Claim Form, (w/ Instructions)

Staff Contact(s): Stephanie Fields, Town Clerk.
David W. Ridenour, Town Attorney.

Chapter [4.96](#) RCW

ACTIONS AGAINST POLITICAL SUBDIVISIONS, MUNICIPAL AND QUASI-MUNICIPAL CORPORATIONS

Sections

- [4.96.010](#) Tortious conduct of local governmental entities—Liability for damages.
- [4.96.020](#) Tortious conduct of local governmental entities and their agents—Claims—Presentment and filing—Contents.
- [4.96.041](#) Action or proceeding against officer, employee, or volunteer of local governmental entity—Payment of damages and expenses of defense.
- [4.96.050](#) Bond not required.

NOTES:

Claims, reports, etc., filing and receipt: RCW [1.12.070](#).

Interest on judgments: RCW [4.56.115](#).

Liability of local governments for injury to unauthorized third-party occupant of local government vehicle: RCW [4.92.180](#).

Liability of public officials and governing body members: RCW [4.24.470](#).

RCW [4.96.010](#) - Tortious conduct of local governmental entities—Liability for damages.

(1) All local governmental entities, whether acting in a governmental or proprietary capacity, shall be liable for damages arising out of their tortious conduct, or the tortious conduct of their past or present officers, employees, or volunteers while performing or in good faith purporting to perform their official duties, to the same extent as if they were a private person or corporation. Filing a claim for damages within the time allowed by law shall be a condition precedent to the commencement of any action claiming damages. The laws specifying the content for such claims shall be liberally construed so that substantial compliance therewith will be deemed satisfactory.

(2) Unless the context clearly requires otherwise, for the purposes of this chapter, "local governmental entity" means a county, city, town, special district, municipal corporation as defined in RCW [39.50.010](#), quasi-municipal corporation, any joint municipal utility services authority, any entity created by public agencies under RCW [39.34.030](#), or public hospital.

(3) For the purposes of this chapter, "volunteer" is defined according to RCW [51.12.035](#).
[[2011 c 258 § 10](#); [2001 c 119 § 1](#); [1993 c 449 § 2](#); [1967 c 164 § 1](#).]

NOTES: Short title—Purpose—Intent—2011 c 258: See RCW [39.106.010](#).

Purpose—1993 c 449: "This act is designed to provide a single, uniform procedure for bringing a claim for damages against a local governmental entity. The existing procedures, contained in chapter [36.45](#) RCW, counties, chapter [35.31](#) RCW, cities and towns, chapter [35A.31](#) RCW, optional municipal code, and chapter [4.96](#) RCW, other political subdivisions, municipal corporations, and quasi-municipal corporations, are revised and consolidated into chapter [4.96](#) RCW." [[1993 c 449 § 1](#).]

Severability—1993 c 449: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [[1993 c 449 § 15](#).]

Purpose—1967 c 164: "It is the purpose of this act to extend the doctrine established in chapter 136, Laws of 1961, as amended, to all political subdivisions, municipal corporations and quasi municipal corporations of the state." [[1967 c 164 § 17](#).]

Severability—1967 c 164: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [[1967 c 164 § 18](#).]

RCW [4.96.020](#) - Tortious conduct of local governmental entities and their agents—Claims—Presentment and filing—Contents.

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) For claims for damages presented after July 26, 2009, all claims for damages must be presented on the standard tort claim form that is maintained by the office of risk management in the department of enterprise services, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the department of enterprise services' website.

(a) The standard tort claim form must, at a minimum, require the following information:

- (i) The claimant's name, date of birth, and contact information;
- (ii) A description of the conduct and the circumstances that brought about the injury or damage;
- (iii) A description of the injury or damage;
- (iv) A statement of the time and place that the injury or damage occurred;
- (v) A listing of the names of all persons involved and contact information, if known;
- (vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney-in-fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of this section shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory. [[2015 c 225 § 6](#); [2012 c 250 § 2](#); [2009 c 433 § 1](#); [2006 c 82 § 3](#); [2001 c 119 § 2](#); [1993 c 449 § 3](#); [1967 c 164 § 4](#).]

NOTES: Purpose—Severability—1993 c 449: See notes following RCW [4.96.010](#).

RCW [4.96.041](#) - Action or proceeding against officer, employee, or volunteer of local governmental entity—Payment of damages and expenses of defense.

(1) Whenever an action or proceeding for damages is brought against any past or present officer, employee, or volunteer of a local governmental entity of this state, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, such officer, employee, or volunteer may request the local governmental entity to authorize the defense of the action or proceeding at the expense of the local governmental entity.

(2) If the legislative authority of the local governmental entity, or the local governmental entity using a procedure created by ordinance or resolution, finds that the acts or omissions of the officer, employee, or volunteer were, or in good faith purported to be, within the scope of his or her official duties, the request shall

be granted. If the request is granted, the necessary expenses of defending the action or proceeding shall be paid by the local governmental entity. Any monetary judgment against the officer, employee, or volunteer shall be paid on approval of the legislative authority of the local governmental entity or by a procedure for approval created by ordinance or resolution.

(3) The necessary expenses of defending an elective officer of the local governmental entity in a judicial hearing to determine the sufficiency of a recall charge as provided in *RCW [29.82.023](#) shall be paid by the local governmental entity if the officer requests such defense and approval is granted by both the legislative authority of the local governmental entity and the attorney representing the local governmental entity. The expenses paid by the local governmental entity may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

(4) When an officer, employee, or volunteer of the local governmental entity has been represented at the expense of the local governmental entity under subsection (1) of this section and the court hearing the action has found that the officer, employee, or volunteer was acting within the scope of his or her official duties, and a judgment has been entered against the officer, employee, or volunteer under chapter [4.96](#) RCW or 42 U.S.C. Sec. 1981 et seq., thereafter the judgment creditor shall seek satisfaction for nonpunitive damages only from the local governmental entity, and judgment for nonpunitive damages shall not become a lien upon any property of such officer, employee, or volunteer. The legislative authority of a local governmental entity may, pursuant to a procedure created by ordinance or resolution, agree to pay an award for punitive damages.

[[1993 c 449 § 4](#); [1989 c 250 § 1](#); [1979 ex.s. c 72 § 1](#). Formerly RCW [36.16.134](#).]

NOTES: *Reviser's note: RCW [29.82.023](#) was recodified as RCW [29A.56.140](#) pursuant to 2003 c 111 § 2401, effective July 1, 2004.

Purpose—Severability—1993 c 449: See notes following RCW [4.96.010](#).

RCW [4.96.050](#) - Bond not required.

No bond is required of any local governmental entity for any purpose in any case in any of the courts of the state of Washington and all local governmental entities shall be, on proper showing, entitled to any orders, injunctions, and writs of whatever nature without bond, notwithstanding the provisions of any existing statute requiring that bonds be furnished by private parties.

[[1993 c 449 § 5](#).]

NOTES: **Purpose—Severability—1993 c 449:** See notes following RCW [4.96.010](#).

Resolution #623

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT APPOINTING AN AGENT FOR THE RECEIPT OF CLAIMS FOR DAMAGES PURSUANT TO RCW 4.96

Whereas, the Town of Yacolt, (hereafter “*Town*” or “*Yacolt*”) is a local government entity as defined by RCW 4.96.010 which allows certain claims for damages to be filed against local government entities;

Whereas, RCW 4.96.020 requires all local governmental entities to appoint an agent to receive any claim for damages made under RCW 4.96;

Whereas, RCW 4.96.020 requires that all claims for damages against a local governmental entity or against any local governmental entity’s officers, employees, or volunteers, acting in such capacity, must be presented to the agent within the applicable period of limitations within which an action must be commenced;

Whereas, the identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located;

Whereas, pursuant to RCW 4.96.010, filing a claim for damages within the time allowed by law is a condition precedent to the commencement of any action for damages against a local government entity;

Whereas, the failure of a local governmental entity to comply with the requirements of RCW 4.96.020 precludes that local governmental entity from raising certain defenses under RCW 4.96;

Whereas, local government entities shall make available a standard tort claim form including the name, address and business hours of the agent, with instructions on how the form is to be presented;

Whereas, a claim is deemed presented when the claim form is delivered in person or is received by the agent when mailed by regular mail, registered mail, or certified mail with return receipt requested; and,

Whereas, the Town Council is in regular session this 12th day of February, 2024, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Yacolt as follows:

Section 1 – Designation of Agent for Receipt of Claims: The Town Council hereby appoints the Yacolt Town Clerk as the Town’s Agent to receive any claims for damages made against the Town pursuant to RCW Chapter 4.96:

<u>Agent Appointed:</u>	Yacolt Town Clerk
<u>Current Town Clerk:</u>	Stephanie Fields
<u>Office Address:</u>	P.O. Box 160 / 202 W. Cushman Street, Yacolt, WA 98675
<u>Business Hours:</u>	Monday – Thursday, 9:00 a.m. to 5:00 p.m., (excluding official holidays)

Section 2 – Presenting Claims to the Agent: Claims for damages against the Town of Yacolt shall be deemed presented if served on the Town’s Agent by any of the following methods: 1). Personal

delivery to the Agent at Yacolt Town Hall, 202 W. Cushman Street, Yacolt, Washington; or, 2). Receipt by the Agent of the claim by regular mail, registered mail, or by certified mail, with return receipt requested, at P.O. Box 160, Yacolt, WA 98675.

Section 3 – Use of Yacolt’s Standard Tort Claim Form is Required: All claims against the Town shall be presented to the Agent on a Standard Tort Claim Form that is maintained by the Town. The Standard Tort Claim Form is available to claimants upon request together with instructions on how the form is to be presented.

Section 4 – Resolution to be Recorded: This Resolution is a public record subject to inspection and copying, and will be recorded with the Clark County Auditor’s Office soon after its adoption.

Section 5 - Instructions to the Town Clerk: The Town Clerk is directed to perform the following tasks:

- a). Cause the fully-executed Resolution to be recorded with the Clark County Auditor’s Office; and,
- b). Promptly post a copy of this Resolution on the Town’s website for public inspection.

Section 6 – Conflicting Resolutions Repealed: All previous resolutions or parts of resolutions in conflict with Section 1 of this Resolution are hereby repealed.

Section 7 – Effective Date: This Resolution shall be effective upon passage, approval and signatures hereon in accordance with law. The Town Clerk may publish the following summary of this Resolution:

Town of Yacolt - Summary of Resolution #623

The Town Council of the Town of Yacolt adopted Resolution #623 at a special meeting of the Town Council held on February 12, 2024. The content of the Resolution is summarized in its title as follows: A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT APPOINTING AN AGENT FOR THE RECEIPT OF CLAIMS FOR DAMAGES PURSUANT TO RCW 4.96.

The effective date of the Resolution is February 12, 2024. A copy of the full text of the Resolution 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 21st day of February, 2024.
Yacolt Town Clerk.

Resolved by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 12th day of February, 2024.

TOWN OF YACOLT

Ian Shealy, Mayor

Attest:

Stephanie Fields, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: _____
Nays: _____
Absent: _____
Abstain: _____

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Resolution is a true and correct copy of Resolution #623 of the Town of Yacolt, Washington, entitled "A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YACOLT APPOINTING AN AGENT FOR THE RECEIPT OF CLAIMS FOR DAMAGES PURSUANT TO RCW 4.96" as approved according to law by the Yacolt Town Council on the date therein mentioned.

Attest:

Stephanie Fields, Town Clerk

Adopted: February 12, 2024

Published: _____

Effective Date: February 12, 2024

Resolution Number: 623



Town of Yacolt

202 W. Cushman Street - P.O. Box 160
Yacolt, WA 98675

Tel: (360) 686-3922 Fax: (360) 686-3853

Email: townofyacolt@townofyacolt.com
www.townofyacolt.com

STANDARD TORT CLAIM FORM

General Liability Claim Form

Pursuant to Chapter 4.92 RCW, this form is for filing a tort claim against the state of Washington. Some of the information requested on this form is required by RCW 4.96 and may be subject to public disclosure. Standard Tort Claim forms cannot be submitted electronically, (via email or fax).

PLEASE TYPE OR PRINT CLEARLY IN INK

Mail to:

Town Clerk
Yacolt Town Hall
P.O. Box 160
Yacolt, WA 98675

Deliver to:

Town Clerk
Yacolt Town Hall
202 W. Cushman Street
Yacolt, WA 98675

Business Hours: Monday through Thursday, 8:00 a.m. – 5:00 p.m.

(Town Hall is closed between noon and 1 p.m. daily, on all federal holidays, and on weekends.)

CLAIMANT INFORMATION

1. Claimant's name:

Last Name *First* *Middle* *Date of Birth (mm/dd/yyyy)*

2. Current residential address at the time of presenting this claim:

3. Mailing address, (if different):

4. Residential address of the Claimant at the time of the incident, (if different from current address):

5. Claimant's daytime telephone number:

Home

Business

6. Claimant's e-mail address:

INCIDENT INFORMATION

7. Date of the incident: _____ Time: _____ a.m. / p.m. (*circle one*)
(*mm/dd/yyyy*)

8. If the incident occurred over a period of time, date of first and last occurrences:

from _____ Time: _____ a.m. p.m. to _____, Time: _____ a.m. p.m.
(*mm/dd/yyyy*) (*mm/dd/yyyy*)

9. Location of incident:

State and County

City

Place where occurred

10. If the incident occurred on a street or highway:

Name of Street

Street Address

*At the intersection with or nearest
intersecting street*

11. Agency or department alleged responsible for damage/injury:

12. Names, addresses and telephone numbers of all persons involved in or witness to this incident:

13. Names, addresses and telephone numbers of all Yacolt employees having knowledge about this incident:

14. Names, addresses and telephone numbers of all individuals not already identified in #12 and #13 above that have knowledge regarding the liability issues involved in this incident, or knowledge of the Claimant’s resulting damages. Please include a brief description as to the nature and extent of each person’s knowledge. Attach additional sheets if necessary.

15. Describe the cause of the injury or damages. Explain the extent of property loss or medical, physical or mental injuries. Attach additional sheets if necessary.

16. If your vehicle was involved or damaged, please provide the information requested below:

<i>License plate</i>	<i>Make</i>	<i>Model</i>	<i>Year</i>
<hr/>			
<i>Registered owner’s name</i>			
<hr/>			
<i>Insurance company</i>			
<hr/>			
<i>Insurance policy number</i>			
<hr/>			

17. Has this incident been reported to law enforcement, safety or security personnel? If so, when and to whom?

18. Names, addresses and telephone numbers of treating medical providers. Attach copies of all medical reports and billings.

19. Please attach documents which support the claimant's allegations.

20. I claim damages from the Town of Yacolt in the sum of \$ _____

This claim form must be signed by the Claimant, a person holding a written power of attorney from Claimant, an attorney for the Claimant, by an attorney admitted to practice in Washington State on behalf of the Claimant, or by a court-approved guardian or guardian ad litem on behalf of the Claimant.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Signature of Claimant *Date and place (residential address, city and county)*

or

Signature of Representative *Date and place (residential address, city and county)*

Print Name of Representative *Bar Number (if applicable)*



Town of Yacolt

202 W. Cushman Street - P.O. Box 160
Yacolt, WA 98675

Tel: (360) 686-3922 Fax: (360) 686-3853

Email: townofyacolt@townofyacolt.com
www.townofyacolt.com

INSTRUCTIONS FOR COMPLETING A TORT CLAIM FORM

General Liability Claim Form
Town of Yacolt

- Before filing a Tort Claim, please read these instructions in their entirety.
- Type or print clearly in ink and sign the Tort Claim form.
- Provide all requested information and any available documents or evidence supporting your claim, such as medical records or bills for personal injuries, photographs, proof of ownership for property damages, receipts for property value, etc.
- If the requested information cannot be supplied in the space provided, please use additional blank sheets so your claim can be easily read and understood.
- Your Claim must be served on the Town Clerk by personal service or delivery, or by mail addressed to the Town Clerk.

The following are examples on how to complete the Standard Tort Claim Form:

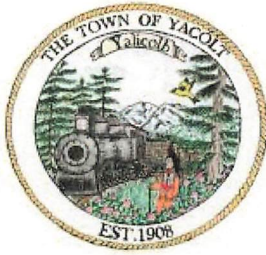
Claimant Information

1. Smith, Karen Michelle February 11, 1965
2. 1234 College Way NW, Apt. 56, Seattle WA 98178
3. PO Box 910, Seattle WA 98178
4. Same (or residence at the time of incident)
5. (206) 123-4567 (425) 123-4569

6. jandoe@email.com

Incident Information

7. June 1, 2009 8:00 am
8. If the incident that caused the damages occurred over a period of time, please provide the beginning date and time listed in item 7 and the ending time and date.
9. Washington, Thurston, Tumwater, Campus of South Puget Sound Community College
10. I-5, Southbound, Milepost 109, near the Martin Way Exit
11. Washington State Department of Transportation
12. Smith, Thomas Arthur, 1234 College Way NW, Apt. 56, Seattle WA 98178 (360) 456-3456;
Tow Truck Driver, Nisqually Towing
13. Doug Doe, Driver for Department of Transportation
14. List all other witnesses having knowledge of the incident in question, with their names, addresses, and telephone numbers that are not listed within items 11 and 12. Also include a description of their knowledge. For example, if your sister was with you, when the alleged incident occurred, please include her name, address, telephone number, and indicate she witnessed the incident.
15. List your injury or damage. Explain property loss or medical, physical or mental injuries, specifically answering the questions who, what, where, when and why.
16. If your vehicle was involved in the incident, please provide the information requested.
17. If you reported this incident to law enforcement, safety, or security personnel, please provide a copy of the report or contact information to the person you spoke with.
18. Please provide information of all your medical providers with their names, addresses, telephone numbers, and the type of treatment. If you were treated for a personal injury, please include your medical records and bills.
19. Attach receipts, pictures, witness statements or any other document to support your claims allegation.
20. Please provide the dollar amount for your damages, including your time loss, medical costs, property damage loss, etc. This amount should represent your opinion of total compensation.



Town of Yacolt Agenda Request

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

Name: Engineer Devin Jackson

Group Name: Staff

Address: 202 W Cushman St
Yacolt, WA 98675

Phone: (360) 723-0381

Email Address: devin@jacksoncivil.com

Alt. Phone:

ITEM INFORMATION:

Item Title: Proposal for Comprehensive Plan

Proposed Meeting Date: February 12, 2024

Action Requested of Council: Review the proposal sent by our Town Engineering Firm, Jackson Civil Engineering.

Proposed Motion: "I move that we accept (or do not accept, or accept with the following changes: _____) the proposal from the Town's Engineering firm, Jackson Civil Engineering, to draft the Town's Comprehensive Plan Update."

Summary/ Background: This proposal is for services to create an update to our Town's Comprehensive Plan. The Town has been approved for two separate grants, each for up to \$100,000, specifically to reimburse the Town for expenses incurred in developing our Comprehensive Plan Update. The Washington State Department of Commerce requires that our Comprehensive Plan is updated by mid-2025. (The Proposal is attached.)

Staff Contact(s): Mayor Shealy
mayor@townofyacolt.com
(360) 686-3922

DATE: February 07, 2024

CLIENT: Town of Yacolt

CONTACT: Stephanie Fields

CLIENT PHONE: 360-686-3922

CLIENT ADDRESS: PO Box 160, 202 W Cushman St, Yacolt, WA 98675

JOB NUMBER/PROJECT TITLE: Yacolt Comprehensive Plan Update and Climate Change Element

SCOPE: This proposal is for services related to the completion of a Comprehensive Plan Update with the addition of a climate change element satisfying the newly adopted requirements of the State of Washington. The below table breaks down tasks with deliverables anticipated to accomplish this scope.

Tasks	Deliverables	Budget
Update Comprehensive Plan	<ul style="list-style-type: none"> - Periodic update work plan - Public Participation Plan - Critical Aras Update Checklist - Comp Plan Update Checklist - Development Regulations Checklist - Public Engagement activities, website, meetings, as determined by work plan - Update inventories, existing conditions, and demographic data - Communications with Department of Commerce - Formatted Comprehensive Plan Template with Appendices - Draft Comprehensive Plan - Draft Development Regulations - SEPA Checklist and Threshold Determination - Adopted Development Regulations - Adopted Comprehensive Plan - Resolution finding the periodic update is complete. 	\$100,000
Create Climate Resilience Element	<ul style="list-style-type: none"> - Exploration of local climate impacts and assets - Identification of climate hazards - Audit plans and policies to identify climate gaps and opportunities - Develop goals and policies - Integrate goals and policies into Comp Plan 	\$70,000

	<ul style="list-style-type: none"> - Adopt climate resilience goals and policies - Draft Critical Areas Ordinance - Adopted Critical Areas Ordinance 	
Total Budget		\$170,000

Detailed Task List and Timeline

Tasks Funded by Periodic Update Grant

Task/Work Item	Deliverable	Budget
Grant Year 1		
Periodic Update work plan Anticipated completion date: February 15, 2024	Periodic update work plan	\$2,000
Public participation plan Anticipated completion date: February 15, 2024	Public participation plan	\$2,000
Critical areas analysis. Anticipated completion date: March 31, 2024	Critical Areas Checklist	\$1,000
Comprehensive plan analysis including capital facilities assessment. <ul style="list-style-type: none"> - Commerce Update Checklists - Policy Gaps Analysis Includes establishing community outreach methods, website, notifications, and gathering comments. Does not include analysis for Climate Element, which is outlined in separate scope. Anticipated completion date: March 31, 2024	Comprehensive Plan Checklist	\$20,000
Development Regulations analysis. Does not include drafting of Critical Areas codes, which will be	Development Regulations Checklist	\$1,000

addressed under the Climate Element scope. Anticipated completion date: March 31, 2024		
Internal Draft of Comprehensive Plan Includes formatted plan template with existing conditions appendices and partially edited text. Does not include Climate Element, which is outlined in separate scope. Includes one meeting with Planning Commission. Anticipated completion date: May 15, 2024	Formatted Comprehensive Plan Template with Appendices for Staff Review	\$24,000
Year 1 Total Due June 15, 2024		\$50,000
Grant Year 2		
Public Review Draft of Comprehensive Plan Includes draft plan with revised goals and policies ready for public review. Includes 2 meetings with Planning Commission or City Council; one public meeting event. Climate Element is included under a separate scope. Anticipated completion date: January 30, 2025	Draft Comprehensive Plan Notification email from Commerce that draft ordinance was given for 60-day review.	\$20,000
Draft Critical Areas Ordinance Includes public hearing. Anticipated completion date: January 30, 2025	Draft Critical Areas Ordinance Notification email from Commerce that draft ordinance was given for 60-day review.	
Adopted Critical Areas Ordinance. Includes approval hearing. Anticipated completion date: April 30, 2025	Adopted Critical Areas Ordinance Notification email from Commerce that adopted ordinance was received.	

Adopted Comprehensive Plan amendment. Perform SEPA Review Includes approval hearing. Anticipated completion date: April 30, 2025	Adopted Comprehensive Plan Completed SEPA Checklist and Threshold Determination Notification email from Commerce that adopted ordinance was received	\$20,000
Draft Development Regulations Ordinance Anticipated completion date: January 30, 2025	Draft Development Regulations Ordinance Notification email from Commerce that draft ordinance was given for 60-day review	\$8,000
Adopted Development Regulations Ordinance. Anticipated completion date: April 30, 2025	Adopted Development Regulations Ordinance Notification email from Commerce that adopted ordinance was received	\$1,000
Finding that the periodic update required by RCW 36.70A.130(b) is complete. Anticipated completion date: June 1, 2025	Resolution Finding the periodic update required by RCW 36.70A.130(b) is complete. Notification email from Commerce that adopted ordinance was received.	\$1,000
Year 2 Total Due June 15, 2025		\$50,000
Periodic Update Grant Total		\$100,000

Tasks Funded by Climate Resilience Grant

Step 1	Explore climate impacts.	11/2023-01/2024
Task 1.1	Identify community assets.	
Task 1.2	Explore hazards and changes in the climate.	
Task 1.3	Pair assets and hazards and identify exposure and consequences.	
Task 1.4	Identify priority climate hazards.	

Deliverable 1	Submit a memo summarizing completion of this step	01/15/2024
Step 1 subtotal		\$10,000
Step 2	Audit plans and policies.	11/2023-02/2024
Task 2.1	Review existing plans for climate gaps and opportunities.	
Task 2.2	Determine next step.	
Deliverable 2	Submit a memo summarizing completion of this step.	02/15/2024

Step 2 subtotal		\$5,000
Step 3	Select and/or adapt existing goals and policies.	03/2024-10/2024
Task 3.1	Develop goals.	
Task 3.2	Develop policies, including updates to Critical Areas Ordinance	
Task 3.3	Identify policy co-benefits.	
Deliverable 3	Submit a memo summarizing completion of this step.	10/15/2024
Step 3 subtotal		\$30,000
Step 4	Integrate goals and policies.	08/2024-03/2025
Task 4.1	Review and finalize resilience goals and policies. Prepare edits to Critical Areas Ordinance	
Task 4.2	Consult with partners, stakeholders, and decision-makers.	
Deliverable 4	Draft updated goals and policies to address climate resiliency.	01/30/2025
Deliverable 5	Adopt climate resilience goals and policies by ordinance, or adopt updated FEMA Hazard Mitigation Plan by reference.	02/15/2025
Deliverable 6	Submit a memo summarizing completion of this step.	03/15/2025
Step 4 Subtotal		\$35,000
Climate Element TOTAL		\$70,000

TOTAL ESTIMATE: \$170,000

Rate Table

Principal	\$230/hr.
Senior Civil Engineer	\$175/hr.
Civil Engineer	\$140/hr.
Office Manager	\$95/hr.
2-person Field Crew	\$190/hr.
Mileage	Current Federal Rate
Printing/Production	At Cost
Subconsultant	Cost + 15% Markup

By signing this agreement Client is authorizing Jackson Civil Engineering, LLC (JCE) to begin work and is agreeing to the terms and conditions attached to this contract. JCE will commence work upon receipt of this signed agreement. This proposal is good for 14 days after which JCE reserves the right to rescind or amend this proposal in its entirety.


JACKSON CIVIL ENGINEERING, LLC

CLIENT

JACKSON CIVIL Digitally signed by
Devin Jackson
Date: 2024.02.07
10:41:30 -08'00'

DATE _____

DATE _____

TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY NEGOTIATED CONDITIONS OF THIS AGREEMENT, AND ARE REFLECTED IN THE SERVICES TO BE PROVIDED AND THE PRICES THEREFORE:

ADVANCE DEPOSIT: Any advance deposit required under this Agreement may be applied against services provided by JACKSON CIVIL ENGINEERING, LLC ("JCE") at any time during the term JCE provides services under this agreement, including, but not limited to, application against of services last-provided by JCE. Client's payment of the Advance Deposit shall not excuse timely payment of monthly invoices.

PAYMENT/ATTORNEY FEES AND COSTS: Client will be invoiced on a monthly basis. Invoices are due and payable on receipt. Delinquent accounts are charged interest at a rate of eighteen per cent (18%) per annum, and Client agrees to pay the same. Client promises to pay all fees, costs, and expenses incurred relating to the collection of delinquent amounts owed to JCE, including without reasonable attorneys' fees and expert witness fees, fees and costs incurred on appeal, and lien recording and foreclosure fees.

NOTICE OF DISPUTE Client must notify JCE of any invoice dispute in writing within 30 days of the invoice date, and Client's failure to provide such notice during said thirty-day period JCE's invoice shall waive Client's right to dispute such invoice.

REIMBURSABLE EXPENSES: Expenses to be reimbursed to shall be those expenses incurred directly for the project, including but not limited to transportation costs, permit fees, mailing, mileage and other directly related charges. Reimbursement for these expenses shall be on the basis of actual costs.

ADDITIONAL SERVICES: All additional services provided at Client request or due to changes of circumstances beyond the series contemplated in the scope of this agreement shall be paid by Client at JCE's standard rates. Changes in circumstances shall include, but not necessarily be limited to, required changes to JCE's work product under this agreement due to changed legal requirements after the date of this Agreement.

COST AND FEE ESTIMATES: Actual time and expenses may vary from cost estimates and fee estimates, as estimates are only JCE's best projection of costs, and actual time spent and expenses incurred shall be the amount billed.

HOURLY RATES: Jackson Civil reserves the right to amend hourly rates the first of each year.

INSURANCE: JCE is covered by a general liability insurance policy and a professional liability policy, which policies shall each provide for at least \$1,000,000 coverage per occurrence, \$2,000,000 general aggregate. If Client requires additional coverage in excess of that amount, and if procurable, JCE will obtain additional insurance to the level Client requests at Client's sole expense.

FAILURE TO PAY: Client's failure to timely pay any JCE payment due in a timely manner may result in JCE service suspension and JCE withholding plans, documents, and information prepared under contract with Client. JCE may claim a lien for all materials, labor, and services furnished if any amount due hereunder is not timely paid.

ACCESS TO SITE: Client shall provide JCE access to the site where services are provided, for activities necessary to perform services. Client warrants that it shall have access to the site.

PROFESSIONAL STANDARDS: JCE provides no warranties, but JCE shall provide services with the skill, diligence and judgment exercised by the prudent engineers in the community where services are provided, to achieve the goals and objectives agreed upon with Client. JCE shall inform Client of progress and changes in conditions that may affect the appropriateness or achievability of some or all of the goals and objectives of the Client specified in this agreement.

TERMINATION- Either Client or JCE may terminate this Agreement by giving 30 days written notice to the other party. In such event, Client shall immediately pay JCE in full for all work previously authorized and performed prior to effective date of termination.

LIMITATION OF LIABILITY: Client waives all claims against JCE and indemnifies and releases JCE from any claim, demand, loss, or liability that Client may now or hereafter have against JCE arising out of or in connection with this

Agreement or the services provided hereunder (whether in tort, contract or otherwise); except for claims, demands, losses or liability resulting from JCE's gross negligence or willful misconduct. JCE's liability to the Client shall never exceed the amount of the fee actually paid to JCE under this Agreement. In no event shall JCE be liable for indirect or consequential damages of any kind.

TRANSFERABILITY OF AGREEMENT: This Agreement is between Client and JCE and is not transferable without the written consent of the other party.

OWNERSHIP OF DOCUMENTS: The calculations, drawings, and specifications prepared pursuant to this Agreement ("Work Product") by JCE, whether in hard copy or digital form, are intended for one-time use by Client for this project only. Work Product is and shall remain the property of JCE. Client shall have no right to use the Work Product for one-time use unless all amounts due under this Agreement are paid in full. If Client is in possession of any Work Product and has not paid any amount due hereunder, JCE may demand return of the Work Product, and may specifically enforce Client's obligation to return such Work Product.

INDEMNITY: Client hereby agrees to indemnify JCE and hold JCE harmless from any claim, demand, loss or liability, including reasonable attorneys' fees, that results from for any loss, damage or liability arising from any acts by the Client, its agents, staff, and/or other consultants or agents that act at the direction of Client.

WORK OF OTHERS: JCE shall not be responsible or liable for any work performed or services provided by any entity other than JCE and/or any person that is not a direct employee of JCE, even if JCE coordinates with such entities for completion of the services to be provided under this Agreement. JCE does not assume responsibility for supervising, implementing or controlling the work of others.

VENUE: Any litigation initiated in connection with this Agreement shall take place in Clark County, Washington, unless such case involves a lien claim that must be litigated elsewhere as a matter of law. All claims of any nature that relate to this Agreement shall be subject to Washington state law, unless such claims relate to the foreclosure of a lien and are, as a matter of law, subject to the laws of another state.

NOTICE OF CLAIMS: Client shall provide JCE immediate written notice of any facts that could potentially result in any potential claim against JCE, including but not limited to any dispute, any claimed damages, any perceived failure by JCE, or otherwise. As a condition precedent to any recovery from JCE, Client shall give JCE written notice of any such claim or facts that could result in a claim not later than ten (10) days after the date of the occurrence of the event causing the potential claim. Client's failure to provide such notice, for any reason, shall constitute waiver of such claim.

SEVERABILITY: If any of the provisions contained in this Agreement are determined to be illegal or unenforceable, the remaining provisions of this Agreement shall not be impaired.

RATE CHANGES: JCE reserves the right to adjust rates annually as necessary to accommodate annual cost increases. Increases shall be limited to 10%.



Town of Yacolt Agenda Request

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

Name: Mayor Shealy

Group Name: Staff

Address: 202 W Cushman St
Yacolt, WA 98675

Phone: (360) 686-3922

Email Address: mayor@townofyacolt.com

Alt. Phone:

ITEM INFORMATION:

Item Title: Security Camera System Bids

Proposed Meeting Date: February 12, 2024

Action Requested of Council: Discuss the bids which the Town has gotten so far, and make suggestions for what you'd like to see the Town purchase as a security system to hopefully catch ne'er-do-wells in the act, and to deter future vandalism throughout the Town's facilities.

Proposed Motion: None at this time; discussion only

Summary/ Background: With the ongoing vandalism the Town has been experiencing, we need to do something to catch the culprits and deter continued damage. The Town does have some security cameras in place, but they are outdated and are not on a cloud-based system for remote access. Public Works Director Gardner has gotten several bids from security companies at the request of Mayor Shealy. Those bids will be presented at this meeting for discussion.

Staff Contact(s): Mayor Shealy
mayor@townofyacolt.com
(360) 686-3922



Town of Yacolt Agenda Request

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

Name: Mayor Shealy

Group Name: Staff

Address: 202 W Cushman St
Yacolt, WA 98675

Phone: (360) 686-3922

Email Address: mayor@townofyacolt.com

Alt. Phone:

ITEM INFORMATION:

Item Title: Revoke WATV Ordinance?

Proposed Meeting Date: February 12, 2024

Action Requested of Council: Consider revoking all or part of Yacolt's Ordinance #560 regarding the use of WATVs in Town

Proposed Motion: None at this time; discussion only

Summary/ Background: Deputy Charlie Harris and Clerk Fields have noted that there is a lot of confusion among the people in Town regarding laws which regulate motorcycles and WATVs. In 2017, the Town adopted Ordinance #560, which regulates the use of WATVs within Town limits. The Town does not have its own regulations regarding motor vehicles with less than 4 wheels. Therefore, many people in Town seem to think that there are *no* laws which apply to the use of motorcycles and dirt bikes in Town. Deputy Harris assures us that the State laws regarding motorcycles *do* apply here as they do within the entire state, and the same goes for WATV laws. The redundancy of the WATV regulations is unnecessary and has contributed to the confusion. Therefore, he is asking Council to review our own Ordinance #560, compare it to the State Laws, and perhaps come to the next meeting prepared to possibly revoke it in favor of reliance on the State laws.

Attachment: Ordinance #560

Staff Contact(s): Mayor Shealy
mayor@townofyacolt.com
(360) 686-3922

ORDINANCE #560

AN ORDINANCE ALLOWING THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES ON TOWN ROADWAYS; PROVIDING PENALTIES FOR THE IMPROPER USE OF WHEELED ALL-TERRAIN VEHICLES; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

Whereas, the Town of Yacolt, (hereafter "Town" or "Yacolt"), has the authority under the Revised Code of Washington (RCW) Section 46.09.455 to allow the operation of Wheeled All-Terrain Vehicles, (WATVs), on Town roadways having a speed limit of thirty-five miles per hour or less;

Whereas, all roadways in Yacolt currently have a speed limit of twenty-five miles per hour or less;

Whereas, the Yacolt Town Council desires to allow the operation of WATVs by licensed drivers on all Town roadways;

Whereas, the Town of Yacolt understands that pursuant to RCW 46.09.455(1)(d)(ii), the Town is required to provide a public list of the roadways on which WATVs may operate, and to make that list accessible to the public from the main page of the Town's web site;

Whereas, the Yacolt Town Council intends that the operation of WATVs as permitted by this Ordinance shall be in accordance with all rules of the road, traffic laws and codes, parking regulations, and road use restrictions;

Whereas, the Town Council has deemed it advisable and necessary to codify the Town's Ordinances, and is therefore preparing to adopt a Yacolt Municipal Code; and,

Whereas, the Town Council of the Town of Yacolt is in regular session this 17th day of January, 2017, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it Ordained by the Town Council of the Town of Yacolt, Washington:

Section 1 – Applicability: This Ordinance shall apply to the operation of Wheeled All-Terrain Vehicles, (WATVs), on streets and roadways in the Town of Yacolt, Washington.

Section 2 – Use of WATVs on Town Roadways: Subject to the restrictions and requirements set forth in this Ordinance, a person with a valid driver's license issued by the state of the person's residence may operate a Wheeled All-Terrain Vehicle upon a Town roadway having a speed limit of 35 miles per hour or less.

Section 3 – Restrictions on the Use of WATVs on Town Roadways: Wheeled All-Terrain Vehicles may be operated on Town roadways subject to the following restrictions and requirements:

- (A). **Compliance with RCW 46.09 Required:** A person may not operate a Wheeled All-Terrain Vehicle on any Town roadway except in strict compliance with the provisions and requirements of Chapter 46.09 of the Revised Code of Washington, as now enacted or as hereafter amended, and as further limited by the terms of this Ordinance.
- (B). **Registration Requirements of a WATV:** Wheeled All-Terrain Vehicles operated on a Town roadway must comply with all the registration requirements of Chapter 49.06 of the Revised Code of Washington, as now enacted or as hereafter amended.
- (C). **Equipment Requirements of a WATV:** A Wheeled All-Terrain Vehicle operated on a Town roadway must comply with the equipment requirements of RCW 46.09, including specifically, without limitation, RCW 46.09.457, as such statutes are now enacted or as they may be hereafter amended, and as further limited by the terms of this Ordinance.

Section 4 – List of Roadways Open to WATV Use: All roadways in the Town of Yacolt are open to the operation of Wheeled All-Terrain Vehicles unless identified in Sub-Sections (A) or (B) of this Section as a roadway closed to WATV operation.

- (A). **List of Roadways Closed to WATVs:** None.
- (B). **List of Roadways Open to WATVs for Local Access Only:** None.

Section 5 – Prohibited Areas:

- (A). **Sidewalks:** It is unlawful to operate a Wheeled All-Terrain Vehicle on a sidewalk or other area where it is unlawful to operate a motor vehicle.
- (B). **Parks:** It is unlawful to operate a Wheeled All-Terrain Vehicle in a park, except on a park drive or in a designated parking lot.
- (C). **Bicycle Lanes and Walking Paths:** It is unlawful to operate a Wheeled All-Terrain Vehicle on any bicycle lane, bicycle trail, or on any walking path.

Section 6 – Penalties for Violation: A person who violates a provision of this Ordinance is guilty of a traffic infraction and will be punished by the imposition of a monetary penalty not to exceed \$250.00, exclusive of statutory assessments; provided, however, that conduct constituting a criminal traffic offense may be charged as such and is subject to the maximum penalties allowed for such offense.

Section 7 – Relation to Other Laws:

- (A). Definitions:** The Definitions contained in Chapters 46.04 and 46.09 of the Revised Code of Washington, as now enacted or as hereafter amended, are adopted by this reference and shall apply to this Ordinance.
- (B). Applicability of Traffic Laws:** Except as otherwise provided in Chapter 46.09 of the Revised Code of Washington, as now enacted or as hereafter amended, nothing in this Ordinance shall exempt any operator or owner of a Wheeled All-Terrain Vehicle from any rule of the road, traffic law or code, parking regulation, road use restriction, or road closure.
- (C). Amendments or Additions to Enabling Statute:** Amendment of or addition to any part of Chapters 46.04 or 46.09 of the Revised Code of Washington by the Washington State Legislature shall be deemed to amend or add to this Ordinance or any applicable part hereof, and it shall not be necessary for the Town Council to take any action with respect to such amendment or addition.
- (D). Other Town Ordinances:** The operation of a Wheeled All-Terrain Vehicle on Town roadways is subject to applicable Town Ordinances and parking regulations as such Ordinances and regulations are now enacted or as they may be hereafter adopted, amended, or codified.

Section 8 – Yacolt Municipal Code: Sections 1 through 7 of this Ordinance shall become and be made a part of the Yacolt Municipal Code upon the codification of the Town's Ordinances.

Section 9 – Severability: If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, or its application to any Person or circumstances is held invalid, the remaining portion of this Ordinance shall remain in full force and effect, and the application of the provision to other Persons or circumstances shall not be affected.

Section 10 – Effective Date: The Town Clerk shall certify the adoption of this Ordinance and cause it, or the following summary of it, to be published once within fifteen (15) days of adoption in the Town's legal newspaper of record. This Ordinance shall take effect upon the adoption and publication of the following summary, according to law.

Town of Yacolt - Summary of Ordinance #560

The Town Council of the Town of Yacolt adopted Ordinance #560 at its regularly scheduled Town Council meeting held on January 17, 2017. The content of the Ordinance is summarized in its title as follows: AN ORDINANCE ALLOWING THE OPERATION OF WHEELED ALL-TERRAIN VEHICLES ON TOWN

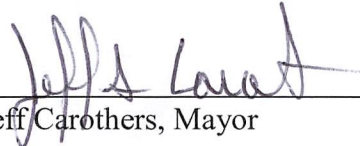
ROADWAYS; PROVIDING PENALTIES FOR THE IMPROPER USE OF
WHEELED ALL-TERRAIN VEHICLES; PROVIDING FOR CODIFICATION;
AND PROVIDING FOR AN EFFECTIVE DATE. The effective date of the
Ordinance is January 25, 2017.

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 25th day of January 2017.
Cindy Marbut, Town Clerk

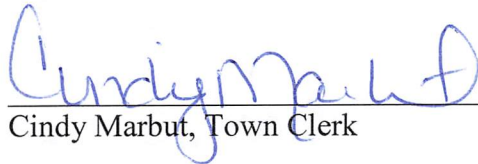
PASSED by the Town Council of the Town of Yacolt, Washington, at a regular meeting
thereof this 17th day of January, 2017.

TOWN OF YACOLT



Jeff Carothers, Mayor

Attest:



Cindy Marbut, Town Clerk

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: Hancock, Myers, Listek, Wallway & Tester
Nays: Ø
Absent: Ø
Abstain: Ø



Town of Yacolt

Request for Council Action

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

Name: Clerk Fields

Group Name:

Address: 202 W. Cushman
Yacolt, WA 98675

Phone: (360) 686-3922

Email Address: clerk@townofyacolt.com

Alt. Phone:

ITEM INFORMATION:

Item Title: Request for Permission to Camp in Rec Park During Racing Events

Proposed Meeting Date: February 12, 2024

Action Requested of Council: Approve Camping in the Rec Park for the Weekend of the BigFoot Fun Run and the Hellz Bellz Ultra-Marathon Produced by WHY Racing Events

Proposed Motion: "I move that the Town allow camping in the Rec Park during the weekend of June 29th and 30th this year, exclusively for the runners in the BigFoot Fun Run and the Hellz Bellz Ultra-Marathon."

Summary/ Background: For the past two years, WHY Racing Events has produced the BigFoot Fun Run and the Hellz Bellz Ultra-Marathon in Yacolt, in conjunction with the Town's Rendezvous Days. They would like to allow their runners to stay the night, as the runs begin very early in the morning. In the past, they have always done a great job of taking good care of the park and cleaning up after themselves when they have camped there.

Staff Contact(s): Clerk Stephanie Fields
clerk@townofyacolt.com

Mayor Ian Shealy
mayor@townofyacolt.com

(360) 686-3922



Town of Yacolt

Request for Council Action

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

Name: Stephanie Fields, Town Clerk
David W. Ridenour, Town Attorney
Group Name: Staff

Address: 202 W. Cushman St.
P.O. Box 160
Yacolt, WA 98675
Phone: David Ridenour (360) 991-7659

Email Address: david@davidridenourlaw.com
Alt. Phone: Town Clerk (360) 686-3922

ITEM INFORMATION:

Item Title: Building and Land Use Department – Application Processing Challenges.

Proposed Meeting Date: February 12, 2024.

Action Requested of Council: Consider recent land use and building permit applications that failed to satisfy the requirements of State and local law. Consider options for handling the deficiencies.

Proposed Motion: None.

Summary/ Background: Many residents with building and land use projects in Town fail to follow the laws and codes that apply to their projects. The struggle to enforce compliance creates extra work for staff, and increases the cost to process applications for both applicants and the Town. The extra work involved can delay the processing of other applications that are well-prepared and that do a good job of satisfying the Town's Codes.

Staff would like to share recent examples of projects that have challenged the Town's Building Department, and requests the Council's direction for how best to handle these challenges.

Attachments: None.

Staff Contact(s): Stephanie Fields, Town Clerk.
David W. Ridenour, Town Attorney.