

**ORDINANCE # 545**

**AN ORDINANCE OF THE TOWN OF YACOLT, WASHINGTON, ADOPTING AN IMPACT FEE DEFERRAL PROGRAM AS REQUIRED BY STATE LEGISLATION ESB 5923.**

**Whereas**, the Town Council of the Town of Yacolt is in regular session this 15<sup>h</sup> day of August, 2016, and all members of the Town Council have had notice of the time, place, and purpose of said meeting and;

**Whereas**, the Legislature of Washington has proposed and/or passed SL 5923 in 2015 relating to deferring the collection date of assessed impact fees, and;

**Whereas**, SL 5923 requires that counties and cities to defer collection of residential impact fees and provides for a lien in favor of the Town against property subject to impact fees, and;

**Whereas**, SL 5923 in its entirety is attached and noted as Exhibit ‘A’ and:

**Whereas**, the Town wishes to comply with SL 5923 and provide a process for deferred collection of residential unit impact fees to be effective upon the effective date of SL 5923 September, 1, 2016 and;

**NOW THEREFORE, be it ordained by the Town Council, of the Town of Yacolt, Washington the following:**

**Section 1 – Definitions**

A) “Applicant for Impact Fee Deferral “means an applicant for a building permit that also makes application for Impact Fee Deferral. It includes an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant.

B) “Transfer” means sale as defined in RCW 82.345.010, forfeiture, foreclosure, trade, gift, receivership, bankruptcy or other change in ownership interest in real property or improvements.

**Section 2 – Deferral of Impact Fees**

In accordance with ESB 5923 (2015), Impact Fees assessed for single-family detached or attached new residential construction may be deferred at the election of an Applicant for Impact fee Deferral under the following conditions:

1. For each single family residence for which any impact fee deferral is applied for, an administrative fee is set in the amount of \$250.00 and must be paid to the town due to the

increased burden placed on the town staff for processing and monitoring such deferral.

2. A separate application must be submitted for each single-family residence being constructed. Only the first twenty (20) applications per calendar year by each applicant for impact fee deferral are eligible for impact fee deferral under this Ordinance.

3. The period of deferral expires at the earliest of:

- A. the time of final inspection by the building inspector as reported to town officials.
- B. the time of issuance of a certificate of occupancy by the town.
- C. the time of closing of the first transfer of the property occurring after the issuance of applicable building permit; or
- D. eighteen months after the building permit is issued by the town.

4. Final inspection approval, certificate of occupancy, and any future utility hookups will not be issued or made until payment in full of the impact fees is made. For the first transfer of the property, the impact fees shall be paid at closing if they have not been previously paid.

5. The Applicant for Impact Fee Deferral must grant and record in favor of the Town of Yacolt an impact fee lien in the amount of the deferred impact fees. The lien must be in a form signed, dated and approved by the Mayor of Yacolt, and signed by all owners of the property and person or entities holding any interest in the property, with all signatures acknowledged as required for a deed, and recorded among the appropriate land records of Clark County. Proof of such recording shall be submitted to the Town of Yacolt before a building permit may be issued. The lien must specify that it is binding on all successors in title after the recordation. The lien may specify that it is subordinate to one mortgage for the purpose of construction upon the same real property granted by the Applicant for Impact Fee Deferral. A mortgage, Deed of Trust or other financing mechanism shall be limited to the property upon which construction on one single family residence will occur. A lien not paid when due shall bear interest at the statutory rate. A lien shall become due at the expiration of the deferral date.

6. If impact fees are not paid in accordance with ESP 5923(2015) the Town of Yacolt may institute foreclosure proceeding in accordance with RCW Chapter 61.12.

7. After full payment of impact fees, and upon written request of the person paying said fees containing the name and address of the requester together with a copy of a proposed lien release form, the Town of Yacolt, upon approval of the Clerk Treasurer and Town Attorney, shall sign a lien release and deliver it to the person paying said fees either in person or by first class mail.

### **Section 3 – Exhibit A**

Exhibit A is attached as reference to ESB 5923

**Section 4 – 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 5 - Effective Date.** This Ordinance shall take effect immediately upon adoption and publication of the following summary, according to law.

**Town of Yacolt - Summary of Ordinance # 545**

The Town Council of the Town of Yacolt adopted Ordinance # 545 at its regularly scheduled Town Council meeting held on August 15, 2016. The content of the Ordinance is summarized in its title as follows:

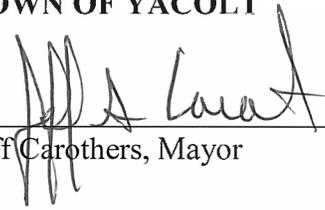
AN ORDINANCE OF THE TOWN OF YACOLT, WASHINGTON, ADOPTING AN IMPACT FEE DEFERRAL PROGRAM AS REQUIRED BY STATE LEGISLATION ESB 5923

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 August 24, 2016  
Effective this August 24, 2016.  
Cindy Marbut, Town Clerk/Treasurer

**PASSED** by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 15<sup>th</sup> day of August, 2016

**TOWN OF YACOLT**

  
\_\_\_\_\_  
Jeff Carothers, Mayor

**Attest:**

  
\_\_\_\_\_  
Cindy Marbut, Town Clerk/Treasurer

Approved as to Form:

\_\_\_\_\_  
David W. Ridenour, Town Attorney

Ayes: Myers, Tester, Listek, Hancock  
Nays: \_\_\_\_\_  
Absent: Wallway  
Abstain: \_\_\_\_\_

**TOWN CLERK'S CERTIFICATION**

I here certify that the foregoing Ordinance is a true and correct copy of Ordinance # 540 AN ORDINANCE OF THE TOWN OF YACOLT, WASHINGTON, ADOPTING AN IMPACT FEE DEFERRAL PROGRAM AS REQUIRED BY STATE LEGISLATION ESB 5923, 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:  
Cindy Marbut  
Cindy Marbut, Town Clerk/Treasurer

Published: 8-24-16  
Effective Date: 8-24-16  
Ordinance Number: 545