

*7061ed Indefinitely*

ORDINANCE NO. 302

AN ORDINANCE relating to business licenses and regulations; regulating the use of electronic and mechanical amusement machines and devices; defining the same; providing for the licensing thereof; and prescribing penalties for the violation thereof.

WHEREAS, the Town of Yacolt has the authority pursuant to RCW 35.27.370(9), to license, for purposes of regulation and revenue, all and every kind of business authorized by law and transacted and carried on in the Town; and all shows, exhibitions and lawful games carried on therein and within one (1) mile of the corporate limits of the Town; to fix the rate of license tax upon the same, and to provide for the collection of the same, by suit or otherwise.

NOW, THEREFORE,

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

Section 1. Repealer. That Yacolt Ordinance \_\_\_\_\_ and any other Yacolt ordinances in conflict herewith are hereby repealed.

Section 2. Definitions. For the purpose of this ordinance the following definitions shall apply:

(a) "Person" shall mean to include any individual, firm or partnership, organization, corporation, or other association of individuals either natural or legal, both singular and plural. The use of the masculine pronoun in this ordinance includes the feminine or the neuter.

(b) "Electronic Amusement Device" shall mean any electronic device or machine displayed for public use in a public place which can be activated by insertion of a coin or coins or tokens by the player (or by a person who operates the machine upon payment of some sum to him or her by or for a player of the machine) and which then plays a game or allows a game to be played by the player, whether or not the player can win any prize by such play.

(c) "Mechanical Amusement Device" shall mean any game or device such as a marble game, lawful "pinball machine," shuffleboard game, mechanical bowling game, foosball game, or other similar amusement device displayed for public use in a public place which can be activated by insertion of a coin or coins or

tokens by the player (or by a person who operates the machine upon payment of some sum to him or her by or for a player of the machine) and which then plays a game or allows a game to be played by the player, whether or not the player can win any prize by such play.

(d) "Vending Machine" shall mean and include all automatic devices and machines wherein a coin may be deposited and the customer receives a specific article of merchandise or a service of the reasonable value of the consideration paid therefore.

(e) "Mechanical Music Device" shall mean any mechanical device designed and constructed so that upon the insertion of any coin or token the device will operate to produce music or speech.

(f) "Public Place" shall mean any place open to the public generally but including private clubs.

Section 3. Licensing required. No person shall maintain or permit to be operated in any location in the Town under his or her immediate control, for a consideration of value or for no charge, any electronic amusement device or mechanical amusement device without first procuring the licenses and paying the license fees therefore as hereinafter provided, and in all other respects complying with the provisions of this ordinance. It is unlawful for anyone to display in any public place any mechanical or electronic amusement machine unless such machine has first been licensed under this ordinance and unless and until the license is displayed in public view on the machine.

Section 4. Exclusions. This ordinance does not apply to and no license shall be required for vending machines or mechanical music devices as defined herein. Also excluded from coverage of the license tax imposed by this ordinance are pool and billiard tables.

Section 5. Machine registration - license and fee. Before any machine or device required to be licensed by this ordinance is displayed in any public place, a machine shall be registered with the town clerk and a "machine license" shall have been issued in a form prepared by the clerk's office and containing a separate town number. Such license shall be displayed in an publicly visible place on each machine. Registration shall be on a form or forms to be prepared by the town clerk. Upon submission of such application and the payment of the license fee, the town clerk shall issue a license for such machine or device. For each such license there shall be collected an annual machine license fee of \_\_\_\_\_ dollars (\$\_\_\_\_\_), to be valid for the balance of the calendar year in which issued. Such license shall not be transferred from one person to another. Such license shall be considered as personal

to the licensee. All licenses issued for any one year shall automatically expire on December 31st of that year.

If any licensed machine is removed from service and replaced during the term of any "machine license", the replacement machine shall be entitled to a credit for the unused term. No additional license fee shall be charged to the replacement machine for the unused term credited. The credit may be obtained by relinquishing the "machine license" for the machine removed from service and replaced, at the time the replacement machine is registered with the Town. A machine license shall also be issued by the Town for the replacement machine, and such license shall note on its face the credit, the remaining term, and the license number relinquished to obtain the credit. Credits are not transferable between persons. This section does not authorize cash refunds or other credits and is intended solely to allow machines to be replaced without payment of an additional license fee for the balance of the license term.

Section 6. Penalty. Any person violating or failing to comply with any of the terms or provisions of this ordinance, upon conviction thereof, is guilty of a misdemeanor, and any person so convicted shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment not to exceed ninety (90) days, or by revocation of the license herein provided for, or by any and all of the same. Each day of violation shall be deemed to be a separate violation.

Section 7. License tax additional to others. The license tax herein levied shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of the Town of Yacolt, except as herein otherwise expressly provided.

Section 8. License tax constitutes debt to municipality. Anyone who fails to make timely application for the application for the licenses required under this ordinance or who fails to remit all the fees due hereunder shall, in addition to criminal penalties provided for in this ordinance, be civilly liable to the Town for any amount due under this ordinance which has not been paid in a timely manner and the town attorney may bring suit therefor. This remedy shall be in addition to all other existing remedies available to the Town.

Section 9. Impact on outstanding license. This ordinance shall not impact or invalidate existing and outstanding licenses for electronic amusement devices, mechanical amusement devices, mechanical music devices, pool or billiard tables, and location licenses effective at the time of adoption and issued pursuant to any Yacolt ordinance. This ordinance shall be prospective only and shall apply only to new licenses issued as required by its terms. All previous licenses for electronic music devices, pool or billiard tables, and location licenses issued under any

existing Yacolt ordinances shall continue in full force and effect and shall expire according to their terms.

Section 10. Revocation of license - appeals. The town clerk may revoke any license issued under this ordinance if she finds that the holder thereof has failed to pay any fee due under this ordinance or has violated any provision of this ordinance. Such revocation shall be in writing addressed to the holder and mailed to the address shown on the license application. The revocation notice shall state the grounds for revocation, the effective date of the revocation, the right to appeal to the Town Council, how an appeal is requested and the time limitation in requesting an appeal. The revocation shall be effective upon expiration of five (5) days from mailing. The licensee may appeal such action by the town clerk to the town council by giving written notice to the town clerk no later than ten (10) days from the effective date of the revocation. The notice requesting an appeal hearing must request a hearing and must state the grounds for the appeal. The council shall hear such appeal within thirty (30) days of receipt by the clerk of the notice of appeal and shall hear from the licensee and town staff and may receive such evidence as it finds is material and then shall promptly make a decision either sustaining, modifying or reversing the action of the clerk, and its action shall be final. Such revocation and/or appeal shall not affect the right of the town to pursue criminal and civil penalties under this ordinance.

Section 11. Administration, inspections, and audits. The town clerk or his designee may require any information from any applicant or licensee as she finds is reasonably necessary to administer and enforce this ordinance and may make such inspections and audits as she finds are necessary. The town clerk or her designee may inspect any records of any applicant or licensee and/or the operator of any location having a machine required to be licensed by this ordinance shall allow the town clerk or his designee at any reasonable time to make inspections and shall fully cooperate.

Section 12. Effective Date. This ordinance shall take effect and be in full force immediately after its passage and publication as provided by law.

Section 13. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any provision or section of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not

affect the validity of the remainder of this ordinance, or the validity of the application to other persons or circumstances.

PASSED by the Town Council of the Town of Yacolt, Washington, this \_\_\_\_ day of \_\_\_\_\_, 1988.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
TOWN CLERK/TREASURER

APPROVED AS TO FORM:

\_\_\_\_\_  
TOWN ATTORNEY

CERTIFICATE

I, the undersigned, Clerk of the Town of Yacolt, Washington (herein called the "Town"), DO HEREBY CERTIFY:

1. That the attached ordinance numbered \_\_\_\_\_ (herein called the "Ordinance") is a true and correct copy of an ordinance of the Town as finally passed at a meeting of the Council of the Town held on the \_\_\_\_\_ day of \_\_\_\_\_, 1988, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town this \_\_\_\_ day of \_\_\_\_\_, 1988.

\_\_\_\_\_  
YACOLT TOWN CLERK