

TOWN OF YACOLT
DOG ORDINANCE NO. # 377

AMENDED
SEE # 383

NOW, THEREFORE, be it ordained by the Town Council of Yacolt, Washington, as follows:

Section 1. Repealer.

That the Town of Yacolt Ordinance No. 191 and No. 313, and any other Town of Yacolt Ordinances in conflict herewith are hereby repealed.

Section 2. Mandatory Licensing of Dogs

It is unlawful for any person to keep or maintain a dog over eight weeks of age (referred to hereafter as an "adult dog") within the Town without paying the license fee and obtaining and retaining the license required by this Ordinance. Provided, that dogs while kept in kennels, pet shops, veterinarian clinics, grooming parlors, or in any animal shelter designed as the custodian of dogs impounded under this Ordinance, shall be exempt from this license requirement; provided, any person who newly acquires an unlicensed or licensed dog, or whose dog becomes an adult, or who moves into Yacolt with such a dog, shall have thirty days within which to obtain the license required by this Ordinance. Such license shall be nontransferable.

Section 3. Agents for Dog Licensing and Dog Registration - Agent's Fee

In addition to the Town clerk or his or her assistants, the council may designate an authorized agent or agents for issuance of Town dog licenses and tags and for the registration of dogs.

Section 4. Application for Dog Licenses

Anyone applying for a license or registration of a dog shall submit to the Town clerk the following information:

- A. The name, address and telephone number of the legal owner of the dog being licensed or registered;
- B. The name, address and telephone number of the person having custody of the dog, if such person is one other than the legal owner;
- C. The name, age, breed, color, sex, distinguishing features, markings or tattoos of the

dog being licensed or registered, and, whether the dog has been neutered or spayed;

- D. The address of the property at which the dog is ordinarily kept or maintained;
- E. A certificate of a veterinarian indicating the dog has current rabies immunization.

Section 5. Dog License Fee

- A. Dog licenses shall be valid from the date of issuance until December 31st of the same year upon payment of the fee required as follows:

Neutered or spayed	\$10.00
Not neutered or spayed	\$20.00

provided, that there shall be no license fee for guide dogs; provided further, that the yearly fee shall be waived for one year only per dog for any dog licensed for the first time as neutered or spayed; provided further, and that a senior citizen who is over the age of sixty-five may license not more than one dog per household at one-half the fee otherwise applicable, and any other dogs residing in the household shall be registered at the fee otherwise applicable.

License fees may be prepaid for a three-year period, if such period coincides with rabies vaccinations as required by Section 4E.

- B. In the case of a dog newly acquired, brought into the Town, and/or becoming an adult, application shall be made within thirty days of the latest event.
- C. There shall be added to the license fee any civil penalties which have been assessed against the dog owner or custodian pursuant to this Ordinance and which are due and owing.
- D. No license fee will be charged to an owner who licenses a dog that is under the age of six months; in such cases the license will be valid up to the time the dog becomes six months of age. In the case of dogs under six months of age, the certificate of rabies vaccination as required by subsection E of Section 4 of this Ordinance is waived.
- E. Applications shall not be deemed complete for purposes of this Ordinance unless and until all required information, documentation, and fees have been received by the licensing agent.

Section 6. Dog License - Late Penalty

A late penalty of two dollars will be charged for all license applications not received by the Town's designated licensing agent within a timely manner as provided for under Section 5.

Section 7. Dog License and Tag Issuance

Upon proper application and upon payment of applicable fees by the owner or person having the custody and control of any dog, the licensing agent shall issue to such person a pre-numbered identification tag for such dog and such person shall insure that the tag thereafter is worn by the dog at all times except at such times as the dog is displayed in an exhibition. The person shall be given a receipt for all fees paid, which shall be pre-numbered to correspond with the license issued.

Section 8. Record of Dog Licenses and Dog Registration

A record of all dog licenses, dog registrations, and their accompanying applications and any supporting certifications and statements shall be kept by the Town clerk or his or her designated agent or agents.

Section 9. Dogs - Running at Large

It is unlawful for any person being the owner or custodian of any dog to permit such dog to be at large upon any public street, highway, or public place, or upon the private property of another within the Town except with the permission of the owner or custodian of such private property.

Section 10. Leash Requirement

It is unlawful for the owner or custodian of any dog to allow the dog to roam, stray, or be away from the premises of the owner or custodian, or to be in or on any public place or property unless such dog is controlled by the owner, custodian or other competent and authorized person by means of a leash; provided, that the leash requirement of this section shall not apply to any dog while in the performance of duty as part of a law enforcement canine patrol.

Section 11. Dog Waste

It is unlawful for the owner or custodian of any dog to permit, either willfully or by failure to exercise due care, such dog to commit a public nuisance by defecating upon private property without the permission of the owner or custodian thereof; upon the public sidewalk, or upon any public street or in or upon any public place where persons customarily walk. It shall be a defense to a charge under this section that such owner or custodian of the dog immediately removed and properly disposed of the feces deposited by the dog.

Section 12. Vicious Behavior

It is unlawful for the owner or custodian of any dog to intentionally, knowingly, recklessly, or with criminal negligence permit such dog to engage in vicious behavior whether or not on the property of such owner or custodian. It shall be a defense to a charge under this section that the dog which injured or endangered such person or property had been intentionally provoked to perform the vicious behavior by the injured or endangered property, or by a person other than the dog's owner or custodian if such provocation is proven by the owner or custodian by a preponderance of the evidence to the satisfaction of the court or hearing officer.

Section 13. Designated Dog Control Agent

The Town Council may designate an agent or agents of the Town to enforce and administer this Ordinance. Any designated dog control agent shall comply with and follow the provisions of this Ordinance.

Section 14. Powers of Designated Dog Control Agent

The dog control agent designated by the Town Council is authorized to take such lawful actions as may be required to enforce the provisions of this Ordinance, including, but not limited to, the issuance of a notice of civil violation, order to abate, or a warning citation for violation of this Ordinance. An employee of the designated enforcement agent, while pursuing any dog observed by such officer to be in violation of this Ordinance, may enter upon public or private property for the purpose of enforcing this Ordinance; provided, that entry into a building designed for and used for private purposes may be accomplished only with the consent of the owner or occupant of said premises or upon the issuance of a proper search or arrest warrant by a court of competent jurisdiction upon a showing by the designated dog control agent that there is reasonable cause to believe that a dog is being maintained in the building in violation of this Ordinance.

Section 15. Obstruction of Dog Control Agent

It is unlawful for any person, without lawful excuse, to knowingly hinder, resist, delay or obstruct any officer, employee, or agent of the designated dog control agent in the performance of their duties under this Ordinance.

Section 16. Notice of Civil Violation - Order to Abate

Whenever the designated dog control agent or employee thereof has reasonable grounds to believe that a dog is in violation or is being maintained in violation of this Ordinance, he or she is authorized to issue to the violator a notice of civil violation and/or order to abate containing the following:

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- A. The name and address, if known, of the owner or person in violation of the Ordinance;
- B. A statement that the officer has found the dog to be maintained illegally, together with a brief description of the violation, including the date of violation and the pertinent Ordinance citation;
- C. A statement assessing a civil penalty for each violation, which penalty shall be paid to the Town of Yacolt within thirty days from the date of issuance; provided, that no penalty shall be assessed for violation of Section 2 if the dog identified in the notice is licensed within ten days after service of the notice. The penalties assessed against any person within any twelve month period shall be as provided in Table 1.

TABLE 1

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
Unlicensed dog	\$ 25.00	\$ 50.00	\$100.00
Obstructing an officer	\$100.00	\$200.00	\$400.00
Vicious behavior	\$100.00	\$200.00	\$400.00
All other violations	\$ 50.00	\$100.00	\$200.00

- D. If found appropriate and necessary by the dog control agent to avoid violations of this or any other animal-related ordinance, there may be separately issued or included with the notice of civil violation an order to abate describing the violation, stating the action required to be taken, and stating a reasonable period of time in which to comply with the ordinance, as determined by the designated dog control agent.
- E. The order to abate shall contain a statement advising that if any required abatement or action is not completed within the time specified, or any civil penalty and/or late payment penalty is not timely paid, or a timely appeal is not made, the designated dog control agent shall report noncompliance to the office of the prosecuting attorney, which shall have authority to commence criminal proceedings charging such person with violation of this Ordinance in action to or as an alternative to any other remedies provided by this Ordinance.

- F. The notice of civil violation or order to abate may be appealed by filing a written notice of appeal as provided by this Ordinance within thirty days of service of the notice or order and the notice or order shall so state on its face. The notice or order shall further bear the notation: "Failure to Respond to this Notice of Violation and/or Order to Abate by Timely Payment of Civil Penalties or by Compliance with the Order, or by Timely Appeal of the Notice and/or Order is a Misdemeanor Punishable by a Fine of not to Exceed \$1,000.00 and/or a Jail Term Not to Exceed One (1) Year."
- G. A notice of violation or order to abate shall be served on the owner or custodian of the dog in violation of this Ordinance either personally or by mailing a copy of such notice and/or order by certified mail, postage prepaid, return receipt requested, to the person at his or her last known address. Service by mail shall be deemed completed upon the third day following the day the notice or order is deposited in the mail.
- H. Proof of service of the notice or order shall be made at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time, and manner in which service was made.
- I. In addition to any other legal remedies available pursuant to this Ordinance, any person who has been issued a notice of violation or order to abate pursuant to this Ordinance and who willfully fails to respond to the notice of civil violation by either the payment of the civil penalty and all late payment penalties within ninety days of issuance, or to the order to abate by compliance therewith within the time specified in the order, or by the timely filing of a notice of appeal, shall be guilty of a misdemeanor regardless of the disposition of the notice of violation or order to abate.

Section 17. Civil Penalty - Scope

The Town intends that the civil penalty provided in this Ordinance shall generally be applied to first violations or other violations when deemed effective. The criminal penalty shall be issued when in the opinion of the prosecuting attorney, in consultation with the designated dog control agent, the civil remedy will not be effective, timely, or when the violation is a second or subsequent violation.

Section 18. Hearing Officer - Appointment

One or more hearing officers shall be appointed by the Town Council to hear appeals relating to the enforcement of this Ordinance. The hearing officer may be a Town employee but shall not be an employee of the Town attorney's office. No employee of the designated dog control agent or of the designated custodian of dogs impounded under this Ordinance shall be appointed as hearing

officer. Contracts may be entered into with private persons to act as hearing officer, to be compensated as shall be provided therein and to be paid out of moneys available and budgeted therefore.

Section 19. Hearing Officer - Powers and Duties

The hearing officer shall hear all appeals from the following decisions of the designated dog control agent and/or designated custodian of impounded dogs:

- A. Notice of civil violation and/or order to abate;
- B. Order to abate habitual violator;
- C. Order to abate attacker;
- D. Denial of redemption;
- E. Amount of redemption fee;
- F. Amount of license fee required in this Ordinance.

The hearing officer shall hear evidence presented by the Town attorney and/or the designated dog control agent to sustain the decision of the designated dog control agent or, in the case of the setting of redemption fees, the designated custodian of impounded dogs. The hearing officer shall likewise hear evidence presented by the person appealing the decision. If the decision of such designated agent or custodian is found to be supported by a preponderance of the evidence, the decision shall be affirmed. The hearing officer may amend the decision as the evidence and justice permit. The hearing officer shall reverse the decision in all other cases. Formal rules of evidence need not be followed, but witnesses shall be sworn by the hearing officer and a written order issued.

Section 20. Appeal Procedure

- A. All appeals to the hearing officer made pursuant to this Ordinance shall be filed in writing with the Town clerk or such other person or agency as the Town may designate and as is named on the notice of violation, order to abate, or other notice issued to this Ordinance, and shall contain:
 - 1) The names of all appellants participating in the appeal;
 - 2) A brief statement setting forth the action protested and the reasons why it is

claimed a protested action should be reversed, modified, or otherwise set aside;

- 3) The signatures of all parties named and telephone numbers and mailing addresses;
 - 4) Verification (by declaration under penalty of perjury) of at least one appellant of the truth of the matter stated in the appeal.
- B. Upon filing an appeal, the Town clerk or other designated person shall transmit the same to a designated hearing officer or officers as provided in this Ordinance.
- C. Failure of any person to file a timely appeal, or failure of any person who has filed an appeal to attend the scheduled hearing, shall constitute a waiver of his or her right to an administrative hearing and the decision of the designated dog control agent or designated custodian of dogs shall be upheld.
- D. Filing of an appeal shall stay the enforcement of any notice of civil violation, order to abate (including order to abate habitual offender or attacker), or of the disposal of any impounded dog during the pendency of such appeal; provided, that a dog owner or custodian who has been denied redemption based upon alleged cruelty or the dog's vicious behavior shall not obtain release of such dog from impoundment except upon order of the hearing examiner upon good cause shown.
- E. The person filing the appeal shall be personally liable for the cost of daily care and necessary veterinarian care, and/or humane destruction of any dog which remains impounded pending the result of the appeal unless otherwise ordered by the hearing officer upon good cause shown.
- F. A copy of the final order of the hearing officer shall be mailed to the appellant(s) within three days (exclusive of Saturdays, Sundays and holidays) following the entering of a written order under this section. Unless otherwise stated in the order, such order shall be final and conclusive ten days from the date thereof unless any party of record makes application to a court of competent jurisdiction for judicial review and stay of enforcement.

Section 21. Personal Obligation

Any criminal penalties, civil penalties, redemption fees, or costs of abatement are personal obligations of the dog owner or custodian. There is a rebuttable presumption that one is a dog owner if one has applied to license or register the dog, or that one is the dog's custodian if the dog is in

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one's possession.

Section 22. Collection

The Town attorney, on behalf of the Town of Yacolt, may collect or seek to collect the civil penalty, abatement costs, redemption fees, and other costs by use of appropriate legal remedies. The designated dog control agent may be authorized by the Town to collect such costs, fees, and penalties as shall be owing as an agent of the Town of Yacolt through small claims courts and/or by assignment of such claim to a collection agency for collection. In addition to costs and disbursements provided for by statute, the prevailing party in a collection action under this Ordinance shall be allowed reasonable attorneys' fees.

Section 23. Habitual Violator

In addition to any other legal remedies available under the provisions of this Ordinance, a designated dog control agent for the Town of Yacolt may order and direct in writing and by personal service the owner or custodian of any dog which is the subject of more than three criminal citations, orders to abate, or notices of civil violation, or any combination of the same in any twelve month period to abate and remove such dog from the Town of Yacolt within ninety-six hours from the date of service of the order to abate habitual violator, or such directive may provide in the alternative abatement and transfer of ownership and possession of such dog to another person not living at the same place of residence. Such order to abate habitual violator shall state the method of appealing the order, as provided for in Section 22, and shall bear the notation that any appeal must be filed before closure of the Town clerk's office or other person or agency which the Town may designate to receive such appeals on the second business day following service of the order. If such dog is found to be kept in violation of the order after ninety-six hours have elapsed from the date and hour of service of the order, or the date and hour of affirmance of such order if a timely appeal is filed, such dog may be abated and removed by the designated dog control agent by impoundment, subject to all impoundment and redemption procedures; provided, however, such dog may not be returned to the same residence or property from which it was impounded or at which it resided or to the same owner or custodian from whom it was impounded.

Section 24. Habitual Attacker

In addition to any other legal remedies available under the provisions of this Ordinance, the designated dog control agent for the Town may order and direct in writing and by personal service to the owner or custodian of any dog which, without sufficient provocation, has bitten or attacked any person, livestock, or domesticated animal so as to cause bodily injury, to abate and remove such dog from the Town of Yacolt within ninety-six hours of the date and hour of service of such order. Such order to abate attacker shall state the method of appeal the order as provided for in Section 22, and shall bear the notation that any appeal must be filed before closure of the Town clerk's office

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or that of such other person or agency which the Town may designate to receive such appeals, on the second business day following service of the order. If such dog is found within the Town of Yacolt after ninety-six hours have elapsed from the date and hour of service of the order, such dog may be apprehended and removed by the dog control agent and disposed of immediately with no right of redemption by any person; provided, that if a timely appeal from the summary order to abate is filed, such dog shall not be disposed of unless and until such order is affirmed; and provided further, that in no event shall such dog be disposed of until the appeal period has expired.

Section 25. Impoundment

The designated dog control agent may apprehend any dog committing or involved in any of the acts defined in this Section. After such a dog is apprehended the dog control agent shall determine whether the dog is licensed, registered, or otherwise identifiable, and may return the dog to the owner, and issue a notice of civil violation and/or order to abate pursuant to this Ordinance. If it is not reasonably possible to immediately return the dog to its owner, or if the dog control agent finds it necessary, for the protection of the dog or of the public, to keep the dog in custody, the dog control agent shall notify the owner of the dog within a reasonable time by telephone, mail, direct personal contact or by posting at the residence of the owner that the dog has been impounded and whether and/or how it may be redeemed from a designated Town dog custodian.

Any unlicensed or unregistered dog impounded pursuant to this Ordinance shall be held for its owner at least seventy-two hours commencing with apprehension. For licensed or registered dogs, such holding period shall be seventy-two hours and shall begin upon notification to the owner of such impoundment. If reasonable attempts have been made by the appropriate authority to notify such owner without success, the licensed or registered dog shall be held for at least one hundred twenty hours from the time of apprehension.

All impound periods shall continue to run during those hours when a designated Town dog custodian's facility is not open for business. The staff of a designated Town dog custodian may cause to have provided necessary vaccinations against contagious disease to any impounded dogs.

Any dog not redeemed by its owner during the prescribed period, or which is suffering from serious injury or disease as determined by the person in charge of a designated Town animal shelter, may be humanely destroyed, made available for adoption or, in the discretion of such custodian, may be held for a longer period and redeemed by its owner upon payment of reasonable medical fees, license fees if the dog is not currently licensed, impound, holding costs, and other chargeable fees, or adopted by any other person not living in the same household as the dog's owner. The owner of any dog impounded pursuant to the provisions of this Ordinance may redeem the dog according to the procedures set out in this Section; provided that, subject to the appeal procedures of this Ordinance, redemption may be denied to an owner of a dog believed to have engaged in vicious behavior as defined in this Ordinance; and provided, that such owner file the appeal from

a denial of redemption with the Town clerk's office or that of such other person or agency which the Town may designate to receive such appeals before closure of such office on the second business day following service of the notice of the denial. Impoundment receipts shall recite redemption requirements and shall serve as the notice to the owner required in this Ordinance. The above notification requirement shall not apply to any dog that was abandoned under the provisions of RCW Chapter 16.54. For purposes of this section such a dog shall be deemed to have no owner.

Section 26. Impoundment Register

The designated dog control agent shall maintain a register of all dogs impounded pursuant to this Ordinance and such register shall show the identification tag number, if any, species and breed of the dog, a description of the dog by coloring and markings, the time and date of the dog's impoundment, the name of the person impounding the dog, the area in which such dog was picked up, the method and time of notifying the owner, if known, of redemption procedures, and the disposition of the dog and the date and time thereof.

Section 27. Custodian of Impounded Dogs

The Town Council may, pursuant to contract for shelter services, designate one or more custodians of dogs impounded pursuant to this Ordinance. The designated dog custodian shall follow the provisions of this Ordinance and other Town ordinances relating to animal control and shall be subject to all the terms and conditions of such ordinances and to the terms and conditions of the contracts which have been, or in the future will be, executed with the Town of Yacolt.

Section 28. Redemption

Any dog impounded pursuant to the provisions of this Ordinance may be redeemed upon payment by its owner of the redemption fees set out below and upon evidence satisfactory to the designated dog control agent that the violation was corrected or by order of the hearing officer following an appeal and hearing as set out in this Ordinance. The correction of a violation includes but is not limited to, the licensing of any unlicensed dog as required by this Ordinance. Any license fees or civil penalties due and owing shall be paid in addition to the redemption fee. The redemption fee shall include the following:

A. Impoundment costs:

- 1) First in a twelve month period - \$15.00
- 2) Second in a twelve month period - \$30.00
- 3) Subsequent in a twelve month period - \$60.00

B. Daily care: For each twenty-four hour period, or portion thereof, from the time of

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impoundment - \$10.00. In the case of litters of puppies the greater of the actual costs or \$5.00 per day will be charged.

- C. Veterinary costs: Actual costs incurred for emergency medical care with a minimum charge of \$25.00 for each veterinary visit.
- D. Transportation costs: \$15.00 plus \$.50 per mile traveled to locate and transport the dog.
- E. All charges are the obligation of the owner even if the dog is not redeemed.
- F. Licensing fees as provided for in Section 5 if the dog being redeemed is not currently licensed.
- G. Any and all other charges incurred by the Town relating to the impoundment.

Section 29. Misdemeanor - Penalties

- A. Any of the following violations of this Ordinance is a misdemeanor punishable upon conviction by not more than one year in jail and/or a fine not to exceed one thousand dollars:
 - 1. Section 12 - vicious behavior
 - 2. Section 15 - obstruction of dog control agent
 - 3. Section 16 - failure to respond
- B. Any violation of any other provision of this Ordinance shall be a misdemeanor punishable by a fine of not more than one thousand dollars.

Ordinance #377

Ordinance #377 shall remain in full force and duly adopted this 20th day of January, 1998, effective March 1, 1998.

Ayes_Councilmembers Milman, Kaski, Messer, Robertson, Smith

Nayes NONE

Absent NONE

Mayor *Kenneth Case*

Attest *Irene Christiansen*

I hereby certify that this is a true and correct copy of the Ordinance #377 as read before the Council and passed on the date herein mentioned and passed according to law.

Irene Christiansen
Irene Christiansen
Clerk/Treasurer