

ORDINANCE #430

AN ORDINANCE RELATING TO CAT LICENSE REQUIREMENTS.

WHEREAS, RCW 35.27.370(9) provides that the town shall have the authority to license to regulate, restrain, or prohibit the running at large of any and all domestic animals within the town limits, or any part or parts thereof, and to regulate the keeping of such animals within any part of the town; to establish, maintain and regulate a common pound for strays, and to appoint a poundkeeper, who shall be paid out of the fines and fees imposed on, and collected from, the owners of any impounded stock; and

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

Section 1. Mandatory Licensing of Cats

It is unlawful for any person to keep or maintain a cat over eight weeks of age (referred to hereafter as an "adult cat") within the Town without paying the license fee and obtaining and retaining the license required by this Ordinance. Provided, that cats while kept in licensed kennels, pet shops, veterinarian clinics, grooming parlors, or in any animal shelter designated as the custodian of cats impounded under this Ordinance, shall be exempt from this license requirement.

Section 2. Agents for Cat Licensing and Cat Registration

In addition to the Town Clerk or his or her assistants, the Town Council may designate an authorized agent or agents for issuance of Town cat licenses and tags and for the registration of cats.

Section 3. Application for Cat Licenses

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

- A. The name, address, and telephone number of the legal owner of the cat being licensed or registered;
- B. The name, address, and telephone number of the person having custody of the cat, if such person is not the legal owner;
- C. The name, age, breed, color, sex, distinguishing features, markings, or tattoos of the cat being licensed or registered, and, whether the cat has been neutered or spayed;

- D. The address of the property at which the cat is ordinarily kept or maintained;
- E. A certificate of a veterinarian indicating the cat has current rabies immunization.
- F. A certificate of a veterinarian indicating the cat has been neutered or spayed (required only if applying for the neutered or spayed licensing fee).

Section 4. Cat License Fee

- A. Cat 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 \$ 5.00
Not neutered or spayed \$15.00

provided, that the yearly fee shall be waived for one year only per cat for any cat licensed for the first time as neutered or spayed; provided further, that a senior citizen who is over the age of sixty-five may license all neutered or spayed cats in the household at one-half the fee otherwise applicable, all other cats 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 3E.

- B. In the case of a cat 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 cat 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 cat that is under the age of six months; in such cases the license will be valid up to the time the cat becomes six months of age. In the case of cats under six months of age, the certificate of rabies vaccination as required by subsection E of Section 3 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 5. Cat 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 4.

Section 6. Cat 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 cat, the licensing agent shall issue to such person a numbered identification tag for such cat and such person shall insure that the tag thereafter is worn by the cat at all times except at such times as the cat is displayed in an exhibition. The person shall be given a receipt for all fees paid, which shall be numbered to correspond with the license issued.

Section 7. Record of Cat Licenses and Cat Registration

A record of all cat licenses, cat 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 8. Cats – Running at Large

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

Section 9. Cat Waste

It is unlawful for the owner or custodian of any cat to permit, either willfully or by failure to exercise due care, such cat to commit a public nuisance by defecating upon private property without the permission of the owner or custodian thereof, or upon any public place.

Section 10. Rabies Control

- A. In the event that any animal has bitten a human being, the designated animal control agent may order quarantine of such animal for a period up to fourteen days. In the event that the agent has reason to suspect that an animal is rabid, the appropriate officials of the Southwest Washington Health District shall be notified and the designated animal control agent shall coordinate any further activities with such health district. The health district shall have jurisdiction over any matter possibly involving rabies. WAC 248-100-450, 248-100-451 and 248-100-452, together with amendments thereto, are incorporated in this chapter by reference and prevail over any conflicting provision of this chapter in any suspected rabies matter.
- B. "Quarantine" means the keeping of a biting animal or the suspected biting animal separate and apart from other animals and people for a period of up to fourteen days. The animal must not be kept in any area that is accessible to other animals or person, but may be kept indoors, caged or confined in a completely fenced yard by a chain or secure harness device. Should the order of quarantine be broken, the animal may be impounded and held by a designated custodian of animals at owner and/or custodian expense for the remainder of the quarantine period. Redemption is subject to payment of any fees allowable under this chapter. It shall be a violation of this chapter for any owner or custodian to whom an order of quarantine is issued to knowingly, recklessly or with criminal negligence permit the order of quarantine to be broken.

Section 11. Designated Cat Control Agent

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

Section 12. Powers of Designated Cat Control Agent

The cat 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 cat 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 cat control agent that there is reasonable cause to believe that a cat is being maintained in the building in violation of this Ordinance.

Section 13. Obstruction of Cat 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 cat control agent in the performance of their duties under this Ordinance.

Section 14. Notice of Civil Violation - Order to Abate

- A. Whenever the designated cat control agent or employee thereof has reasonable grounds to believe that a cat 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 containing the following:
1. The name and address, if known, of the owner or person in violation of the Ordinance;
 2. A statement that the officer has found the cat to be maintained illegally, together with a brief description of the violation, including the date of violation and the pertinent Ordinance citation;
 3. 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 1 if the cat identified in the notice is licensed within ten days after service of the notice.

4. A statement advising that if any civil penalty and/or late payment penalty is not timely paid, or a timely appeal is not made, the designated cat control agent shall report noncompliance to the office of the Clark County Prosecuting Attorney, which shall have authority to commence criminal proceedings charging such person with violation of this Ordinance in addition to or as an alternative to any other remedies provided by this Ordinance.
 5. The Notice of Civil Violation may be appealed by filing a written Notice of Appeal and a \$25.00 administrative review fee 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.
 6. A statement advising that Failure to Respond to this Notice of Violation by Timely Payment of Civil Penalties or by Timely Appeal of the Notice 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.
 7. In addition to any other legal remedies available pursuant to this Ordinance, any person who has been issued a Notice of Violation 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 by the timely filing of a Notice of Appeal, shall be guilty of a misdemeanor regardless of the disposition of the Notice of Violation.
- B. The fines for violation of this Ordinance are set forth in Section 13.
- C. If found appropriate and necessary by the cat 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 containing the following:
1. The name and address, if known, of the owner or person in violation of the Ordinance;
 2. A statement that the officer has found the cat to be maintained illegally, together with a brief description of the violation, including the date of violation and the pertinent Ordinance citation;
 3. Stating the action required to be taken;

4. Stating the owner has 4 days in which to comply with the Order to Abate.
 5. A statement advising that if any required abatement or action is not completed within the time specified, or a timely appeal is not made, the designated cat control agent shall report noncompliance to the office of the Clark County Prosecuting Attorney, which shall have authority to commence criminal proceedings charging such person with violation of this Ordinance in addition to or as an alternative to any other remedies provided by this Ordinance;
 6. A statement advising that the Order to Abate may be appealed by filing a written Notice of Appeal and a \$25.00 administrative review fee as provided by this Ordinance within 4 days of service of the Order.
 7. The Order shall further bear the notation: "Failure to Respond to this Order to Abate by Timely Payment of Civil Penalties or by Compliance with the Order, or by Timely Appeal of the 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";
 8. A statement 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 fourth business day following the day of service of the order; and
 9. If such cat is found to be kept in violation of the order after four days have elapsed from the date of service of the Order, and no timely appeal is filed, such cat may be abated and removed by the designated cat control agent by impoundment, subject to all impoundment and redemption procedures; provided, however, such cat 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.
- D. A Notice of Violation or Order to Abate shall be served on the owner or custodian of the cat 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.

- E. 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.
- F. 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 15. Civil Penalty

- A. The designated cat control agent shall impose one of the following fines if the agent or employee thereof has reasonable grounds to believe that a cat is in violation or is being maintained in violation of this Ordinance. The penalties assessed against any person within any twelve month period shall be as follows:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>3rd Offense</u>
Unlicensed cat \$100.00	\$ 25.00		\$ 50.00
Obstructing an officer \$400.00	\$100.00		\$200.00

- B. 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 a representative of the Town of Yacolt, the civil remedy will not be effective, timely, or when the violation is a second or subsequent violation.

Section 16. Personal Obligation

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

Section 17. Habitual Violator

In addition to any other legal remedies available under the provisions of this Ordinance, a designated cat control agent for the Town of Yacolt may order and direct in writing and by personal service the owner or custodian of any cat 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 cat from the Town of Yacolt within four days 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 cat to another person not living at the same place of residence. Such Order to Abate shall state the method of and timeline for appealing the Order, as provided for in Section 12 and 18.

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 cat control agent or of the designated custodian of cats 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

- A. The hearing officer shall hear all appeals from the following decisions of the designated cat control agent and/or designated custodian of impounded cats:
1. Notice of Civil Violation and/or Order to Abate;
 2. Denial of redemption;
 3. Amount of redemption fee;
 4. Amount of license fee required in this Ordinance.

- B. The hearing officer shall hear evidence presented by the Town attorney and/or the designated cat control agent to sustain the decision of the designated cat control agent or, in the case of the setting of redemption fees, the designated custodian of impounded cats. 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.

- C. 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 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 pursuant 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. The written request for an appeal shall be accompanied by a payment of a \$25.00 administrative review fee to 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 pursuant to this Ordinance.
- C. 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.
- D. 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 cat control agent or designated custodian of cats shall be upheld.
- E. 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 cat during the pendency of such appeal; provided, that a cat owner or custodian who has been denied redemption based upon alleged cruelty shall not obtain release of such cat from impoundment except upon order of the hearing examiner upon good cause shown.
- F. 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 cat which remains impounded pending the result of the appeal unless otherwise ordered by the hearing officer upon good cause shown.

Section 21. 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 cat 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 22. Impoundment

The designated cat control agent may apprehend any cat committing or involved in any of the acts defined in this Section. After such a cat is apprehended the cat control agent shall determine whether the cat is licensed, registered, or otherwise identifiable, and may return the cat 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 cat to its owner, or if the cat control agent finds it necessary, for the protection of the cat or of the public, to keep the cat in custody, the cat control agent shall notify the owner of the cat within a reasonable time by telephone, mail, direct personal contact, or by posting at the residence of the owner that the cat has been impounded and whether and/or how it may be redeemed from a designated Town cat custodian.

Any unlicensed or unregistered cat impounded pursuant to this Ordinance shall be held for its owner at least seventy-two hours commencing with apprehension. For licensed or registered cats, 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 cat 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 cat custodian's facility is not open for business. The staff of a designated Town cat custodian may cause to have provided necessary vaccinations against contagious disease to any impounded cats. Any cat 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 cat 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 cat's owner. The owner of any cat impounded pursuant to the provisions of this Ordinance may redeem the cat according to the procedures set out in this Section; 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 cat that was abandoned under the provisions of RCW Chapter 16.54. For purposes of this section such a cat shall be deemed to have no owner.

Section 23. Impoundment Register

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

Section 24. Custodian of Impounded Cats

The Town Council may, pursuant to contract for shelter services, designate one or more custodians of cats impounded pursuant to this Ordinance. The designated cat 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 25. Redemption

Any cat 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 cat 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 cat 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 impoundment - \$10.00. In the case of litters of kittens 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: \$25.00 plus \$.50 per mile traveled to locate and transport the cat.
- E. All charges are the obligation of the owner even if the cat is not redeemed.
- F. Licensing fees as provided for in Section 4 if the cat being redeemed is not currently licensed.
- G. Any and all other charges incurred by the Town relating to the impoundment.

Section 26. Misdemeanor - Penalties

- A. The following violation 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 19 - obstruction of cat control agent
- 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.

Section 27. Designation of Agent for Issuance of Cat Licenses and Tags

Pursuant to Section 2 and Section 7 the Town of Yacolt does designate the Clark County Animal Control Office, and its assignees, as the authorized agent for the issuance of Town cat licenses and tags and for the registration of cats and for maintaining records of licensed and registered cats.

Section 28. Designation of Agent for Enforcement and Administration of This Ordinance

Pursuant to Section 9 the Town of Yacolt does designate the Clark County Animal Control Office as its agent for the enforcement and administration of this Ordinance.

Section 29. Appointment of Custodian of Impounded Cats

Pursuant to Section 22 the Town of Yacolt does hereby appoint the Southwest Washington Humane Society Shelter as the custodian of impounded cats.

PASSED at a regular meeting of the Town Council of the Town of Yacolt, Washington this 5th day of April, 2004.


AYES Stewart, Smith, Mason, Weldon

NAYS None

ABSENT Tindall-Ellis

MAYOR  ATTEST 

I hereby certify that this is a true and correct copy of Ordinance #430 as read before the Council and passed on the date herein mentioned and passed according to law.

ATTEST 
Brenda Finnegan, Clerk/Treasurer