

ORDINANCE #422

AN ORDINANCE ADOPTING RULES GOVERNING THE USE OF THE YACOLT TOWN PARK.

WHEREAS: The Town Council of Yacolt, Washington, is in regular session this 5th day of August; and

WHEREAS: All members of the Town Council have had notice of time, place, and purpose of said meeting; and

WHEREAS: The Town Council of Yacolt, Washington finds that it is in the best interests of the Town to adopt rules governing the use of the Yacolt Town Park.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YACOLT, WASHINGTON DOES ORDAIN AS FOLLOWS:

The Town of Yacolt does hereby adopt the following rules governing the use of the Yacolt Town Park to protect the public health, safety and welfare.

SECTION 1: Purpose. The purpose of this ordinance is to govern the use of the Yacolt Town Park.

SECTION 2: General park rules. The following rules apply to the Yacolt Town Park:

- A. No person shall cut, remove, destroy, mutilate, or deface any turf, tree, plant, shrub, flower, structure, wall, fence, bench, lighting system, play equipment, or any other part or portion of the park property, except in normal maintenance by authorized personnel.
- B. No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes, wastepaper, cans or any other garbage, refuse, waste or rubbish, of any kind or nature in the park except in a garbage can or other receptacle designated for such purposes.
- C. No person shall deposit any household or commercial garbage, refuse, waste, or rubbish which is brought as such from any private property in any garbage can or other receptacle designated for such purpose.
- D. No person shall possess, discharge, set off or cause to be discharged in or into the park, any firecracker, firework, explosive, or other substance harmful to the life or safety of persons, animals or property.

- E. No person shall possess any type of firearm, bow and arrow, crossbow, slingshot, pellet gun, or any other device capable of injuring or killing any person or animal or damaging or destroying any public or private property, or other weapon, in the park or discharge any such weapon over, across, in or into the park.
- F. No person shall possess, display, open and/or consume alcoholic or other intoxicating beverage, nor shall any person be under the influence of any alcoholic or intoxicating beverage on park property, including in the parking areas.
- G. No person shall possess, display or consume any drug, narcotic or drug paraphernalia, the sale, use or possession of which is prohibited by state law.
- H. No motorized vehicles shall be permitted, except in normal maintenance by authorized personnel.
- I. No riding of skateboards shall be allowed on, over or across any park property, including any paved walkways or parking areas. Violators of this provision are subject to having their skateboard impounded.
- J. No riding of bicycles, rollerblades, or scooters shall be allowed, except on the concrete walkway. Violators of this provision are subject to having their equipment impounded.
- K. No person shall fly rockets or gas-powered model aircraft within the park area.
- L. All dogs, cats, or other domesticated animals in the park shall be on a leash and under the immediate control of their owner at all times, and the owners of such animals shall be responsible for promptly picking up, and properly disposing of, any animal excrement in a sanitary fashion.
- M. No fires shall be permitted in the park except in barbecues designed for such use. No fire shall be left unattended. At the discretion of the Town, fires may be restricted or prohibited at times when fire hazards are considered to be high.
- N. The hours of the park for public use shall be from dawn to dusk.

SECTION 3: Damage deposits. The Town may charge deposits for the use of the park. The amount of the deposit may vary from \$5.00 to \$50.00 depending on the size or nature of the event. The amount of the deposit shall be based on the potential damage to facilities and equipment. The Clerk/Treasurer shall develop rules for damage deposits. Any person damaging park property will be responsible for payment for such damage, in addition to the damage deposit, to the extent that the damage deposit is not sufficient to pay to repair or replace the damaged property.

SECTION 4: Enforcement. The Mayor and the Public Works Supervisor are designated as enforcement officers, and as such are authorized and directed to enforce the provisions of this ordinance, in addition to the authority held by law enforcement officers. The Town Council may also designate other agents of the Town as enforcement officers to enforce the provisions of this ordinance. Any designated enforcement officer having reasonable cause to believe that any person has violated one of the provisions of this ordinance may, in addition to invoking other sanctions, direct said person to immediately leave the park.

SECTION 5: Notice of civil violation.

- A. Whenever a designated enforcement officer has reasonable cause to believe that a person has violated one of the provisions of this ordinance, he or she is authorized to issue to the violator a Notice of Civil Violation. The Notice of Civil Violation shall be delivered in person or by certified mail and shall include the following:
1. The name and address of the person responsible for the violation; and
 2. A description of the violation and a reference to the provision(s) of the town ordinance which has been violated; and
 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; and
 4. A statement advising that in addition to the assessment of a civil penalty, the violator's equipment prohibited in Section 2(I) and Section 2(J) shall be impounded with redemption available upon payment of impound fees; and
 5. A statement advising that in addition to the assessment of a civil penalty, violators of any provision of this ordinance that causes damage to park property or equipment which requires repair or replacement of said property or equipment shall be financially liable for said damage; and
 6. A statement advising that the Notice of Civil Violation may be appealed by filing a written Notice of Appeal and a \$25.00 administrative review fee within thirty days of service of the notice.

- B. The impoundment fees for violation of Section 2(I) and Section 2(J) of this ordinance are set forth in Section 8.
- C. The civil penalties for violation of this ordinance are set forth in Section 7.

SECTION 6: Hearing before the hearing examiner.

- A. *Appeal.* The person to whom a Notice of Civil Violation is issued may appeal by filing a written Notice of Appeal and a \$25.00 administrative review fee within thirty days of service of the notice.
- B. *Hearing examiner.* One or more hearing examiners shall be appointed by the Town Council to hear cases brought under this ordinance. The hearing examiner may be a town employee but shall not be an employee of the public works department or the town attorney's office.
- C. *Procedure.* The hearing examiner shall conduct a hearing on the civil violation. The applicable designated enforcement officer and the person to whom the Notice of Civil Violation was directed may participate as parties in the hearing and each party may call witnesses. The town shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred. Formal rules of evidence need not be followed, but the hearing examiner shall swear all witnesses.
- D. *Decision of the hearing examiner.*
 - 1. The hearing examiner shall determine whether the town has established by a preponderance of the evidence that a violation has occurred and that the monetary penalty and/or impoundment fee is reasonable and shall affirm, vacate, or modify the town's decisions regarding the alleged violation, the monetary penalty and/or impoundment fee.
 - 2. The hearing examiner shall issue a written order to the person responsible for the violation which contains the following information:
 - a. The decision regarding the alleged violation including findings of fact and conclusions based thereon in the support of the decision;
 - b. The monetary penalties and/or impoundment fees based on the criteria in Section 7 and Section 8.

SECTION 7: Civil penalties.

- A. The designated enforcement officer shall impose the following monetary penalties if he or she has reasonable cause to believe that a person is in violation of this ordinance. The penalties assessed against any person within any twelve month period shall be as follows:
1. 1st Offense: \$ 25.00;
 2. 2nd Offense: \$ 50.00;
 3. 3rd Offense: \$100.00.

SECTION 8: Impoundment fees.

- A. The designated enforcement officer shall impose the following impoundment fees if he or she has reasonable cause to believe that a person is in violation of Section 2(I) and/or Section 2(J) of this ordinance. The impoundment fees assessed against any person within any twelve month period shall be as follows:
1. 1st Offense: \$ 25.00;
 2. 2nd Offense: \$ 50.00;
 3. 3rd Offense: \$100.00.

SECTION 9: Appeal procedure.

- A. All appeals to the hearing examiner made pursuant to this ordinance shall be filed in writing with the Town Clerk/Treasurer 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/Treasurer.
- C. Upon the filing of a request for an appeal, the Town Clerk/Treasurer shall transmit the same to a designated hearing examiner.
- 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 enforcement office shall be upheld.

- E. Filing of an appeal shall stay the enforcement of any Notice of Civil Violation.

SECTION 10: Collection. The town attorney is authorized to take appropriate action to collect the monetary penalties.

The Ordinance shall take effect immediately upon adoption and publication according to law.

Passed by the Town Council of the Town of Yacolt, Washington on this 5th day of August, 2002.

AYES Tindall-Ellis, Case, Smith

NAYS None

ABSENT Messer, Mason

MAYOR *Jim Robertson* ATTEST *Brenda Finnegan*

I hereby certify that this is a true and correct copy of Ordinance #422 as read before the Council and passed on the date herein mentioned and passed according to law.

ATTEST *Brenda Finnegan*
Brenda Finnegan, Clerk/Treasurer