

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE TOWN OF GARFIELD, WASHINGTON, adopting Garfield Municipal Code Chapter 14.10, thereby establishing procedures for the adoption of rules to govern conduct in the Town Park, and providing for the exclusion from the park of persons who violate the rules of conduct.

BE IT ORDAINED by the Council of the Town of Garfield as follows:

Section 1. There is hereby adopted as Garfield Municipal Code Chapter 14.10

the following:

**"CHAPTER 14.10  
RULES OF CONDUCT WITHIN TOWN PARK**

**Sections:**

**14.10.010 - Rules of Conduct**

**14.10.020 - Park Exclusion**

**14.10.030 - Trespass**

**14.10.010 - Rules of Conduct.** The Town Council may from time-to-time adopt by resolution rules of conduct, regulating the conduct of persons within the Town Park. Such rules shall be posted in the Town Clerk's office and in a conspicuous place within the Town Park. The rules shall not provide for a criminal or civil penalty; any violation of State or local law shall be punishable separately. However, anyone who violates the rules shall be subject to exclusion from the park as provided in §14.10.020, below.

**14.10.020 - Park Exclusion.** A. The Town, acting through its code enforcement officer or a law enforcement officer, may, by delivering an exclusion notice in person to the offender (and/or, in the case of a person under the age of 18, to the offender's parent, custodian, or guardian), exclude from the Town Park anyone who within the Town Park:

- 1. Violates any rule of conduct established and adopted by the Town Council pursuant to Section 14.10.010, above; or**
- 2. Violates any provision of the Garfield Municipal Code or the Revised Code of Washington.**

The offender need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or effective. The exclusion may be based upon observation by the officer or upon the sort of civilian reports that would ordinarily be relied upon by a code enforcement officer or law enforcement officer in the determination of probable cause.

**B. If the offender:**

1. Has not been excluded from the Town Park by an exclusion notice issued within one (1) year prior to the violation and the current violation is not a felony violation or weapon violation, then the officer may exclude the offender from the Town Park in which the current violation occurred for a period not exceeding seven (7) days from the date of the exclusion notice;
2. Has been the subject of only one (1) prior exclusion notice issued within one (1) year prior to the current violation and neither the current nor the past violation was a felony violation or weapon violation, then the officer shall exclude the offender from the Town Park for a period of ninety (90) days from the date of the exclusion notice;
3. Has been the subject of two (2) or more prior exclusion notices issued within one (1) year prior to the current violation, or if the current violation is a felony violation or weapon violation, then the officer shall exclude the offender from the Town Park for a period of one (1) year from the date of the exclusion notice.

C. The exclusion notice shall be in writing and shall contain the date of issuance. The exclusion notice shall specify the period of exclusion. It shall be signed by the issuing officer. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

D. Only the Town Council after a hearing may rescind or shorten an exclusion notice.

E. An offender receiving an exclusion notice longer than seven (7) days may seek a hearing notice before the Town Council to have the exclusion notice rescinded or the period of exclusion shortened. The request for a hearing shall be delivered to the Town Clerk or postmarked and mailed to the Town Clerk no later than seven (7) days after the issuance date of the exclusion notice. The request for hearing shall be in writing and shall be accompanied by a copy of the exclusion notice on which the hearing is sought. The hearing should occur within thirty (30) days after the Town Clerk receives the request for the hearing. The Town

Clerk shall take reasonable steps to notify the offender of the date, time, and place of the hearing.

F. At the hearing, the offender may present testimony personally and/or by witnesses. Likewise, the Town may present testimony by witnesses. The violation must be proved to a majority of the Town Council members present by a preponderance of the evidence in order to uphold the exclusion notice. If the exclusion notice was issued because of the alleged violation of any criminal law, the offender need not be charged, tried, or convicted for the exclusion notice to be upheld. The exclusion notice establishes a prima facie case that the offender committed the violation as described. The Town Council shall consider a sworn report or a declaration under penalty of perjury as authorized by RCW 9A.72.085, written by the individual who issued the exclusion notice, without further evidentiary foundation. The certifications authorized in Rule 6.13 of the Criminal Rules for Courts of Limited Jurisdiction shall be considered without further evidentiary foundation. The Town Council may consider information that would not be admissible under the evidence rules in a court of law but which the Town Council considers relevant and trustworthy.

G. If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the Town Council may shorten the duration of the exclusion. If the violation is not proved by a preponderance of the evidence, the Town Council shall rescind the exclusion. If the Town Council rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of this chapter.

H. The decision of the Town Council is final. An offender seeking judicial review of the Town Council's decision must file an application for a writ of review in the Whitman County Superior Court within fourteen (14) days of the date of that decision.

I. The exclusion shall remain in effect during the pendency of any administrative or judicial proceeding.

J. No determination of facts made by the Town Council under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

K. This section shall be enforced so as to emphasize voluntary compliance with laws and park rules, and so that inadvertent minor violations that would fall under subsection B(1) of this section can be corrected without resort to an exclusion notice.

**14.10.030 - Trespass.** It shall be unlawful for any person to enter or remain in the Town Park in violation of an exclusion notice issued

under the provisions of §14.10.020, above. Such violation shall constitute trespass.”

Section 2. This ordinance shall be in full force and effect five days after it or a summary thereof, is published in the official newspaper of the Town of Garfield as required by law.

PASSED by the Town Council of the Town of Garfield this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Jarrod Pfaff, Mayor

Attest: \_\_\_\_\_  
Annie Pillers, Clerk

Approved as to form:

\_\_\_\_\_  
Stephen Bishop,  
Town Attorney

Passed: \_\_\_\_\_

Published: \_\_\_\_\_

Effective date: \_\_\_\_\_

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