

# BOARD OF YAKIMA COUNTY COMMISSIONERS

## ORDINANCE NO. 10-2012

IN THE MATTER OF ADOPTING AN ORDINANCE CREATING A NEW CHAPTER 08 OF THE YAKIMA COUNTY CODE (YCC) TITLE 8, REGULATING THE USE OF COUNTY OWNED OR MANAGED REAL PROPERTY BY THE PUBLIC

WHEREAS, RCW 36.32.120 (7) authorizes the Board of County Commissioners for Yakima County (the "Board") to make and enforce, by appropriate resolutions or ordinances, all such necessary police and sanitary regulations as are not in conflict with state law and necessary for the public's benefit; and,

WHEREAS, RCW 36.34.005 authorizes the Board to establish comprehensive procedures for the management of public property consistent with the public interest; and,

WHEREAS, Yakima County has acquired certain real properties for public purposes, including transportation, flood control and recreational purposes and is responsible for insuring the maintenance of this property for the safety and security of its citizens and the continued availability of the land for such purposes; and,

WHEREAS, the Yakima County Public Services Department and the Yakima County Sheriff have testified that certain county owned properties are being used for purposes that are contrary to the county's interest in the property, including the use of county real property for transient camping and habitation, or for unregulated recreational purposes; and,

WHEREAS, use of county real property for camping, habitation or recreational purposes or other purposes contrary to the reasonable regulations established by the county or authorized agencies responsible for managing the property present health and safety risks to the general public where there are not adequate sanitary facilities available and because of the risk of flood, fire and security concerns, including limited access for emergency response vehicles and the properties proximity to public properties lawfully established for public recreational uses; and,

WHEREAS, the unregulated use of county real property strains the county and responsible municipality's law enforcement resources because of the enhanced management and patrol demands generated by such unlawful use of county property; and,

WHEREAS, the Washington State Criminal Code at RCW 9A.52.090 (2) provides a defense to the crime of Trespass for persons who are using public property lawfully, and 9A.52.010 (5) defines "enters and remains unlawfully" to include being on public property contrary to posted hours and conditions of use; and,

WHEREAS, Yakima County has entered into numerous interlocal agreements, memorandums of understanding and leases with various state and federal agencies and public benefit entities, such as the Yakima County Greenway Association, the Washington State Department of Transportation and the Federal Emergency Management Agency, the U.S. Bureau of Reclamation and others and these agreements authorize either the county, or the public entity, to manage said properties for public purposes; and,

WHEREAS, the time and date of the public hearing were published on the 8<sup>th</sup> and 15<sup>th</sup> of October, 2012 issues of the Yakima Herald-Republic newspaper; and,

WHEREAS, testimony has been presented to the Board before and at the public hearing from interested public agencies and members of the public that the use of riparian county properties for camping and after hours recreating or habitation, in addition to creating public health and safety issues, does cause harm to the environment by the cutting of brush and trees for firewood and campsites; and further, that in the event of a sudden rise in river levels people camping in these areas would be at risk of harm, as would public safety personnel tasked with assisting in removing or rescuing them; and,

WHEREAS, the Board has heard testimony and reviewed the evidence submitted as part of this proposed legislative action supporting the adoption of an Ordinance creating a new chapter to YCC Title 8, to be designated as chapter 8 and entitled "*Public Use of County Owned Real Property*", and that prohibits the use of county property outside of posted hours of use and for purposes not authorized by the provisions of this Chapter of the County Code, including camping and recreational uses or for the purpose of storage or habitation; and finally,

WHEREAS, this legislation is necessary for the protection of the health and safety of the public;

**NOW, THEREFORE, BE IT HEREBY ORDAINED:**

**Section 1: Findings.** The Board of County Commissioners for Yakima County enters the following Findings:

A. The Board finds that all state and county prerequisites for the review and evaluation of a new chapter to Title 8, [*PUBLIC PEACE, SAFETY AND MORALS*], to be designated as Chapter 08 and entitled "*Public Use of County Owned Real Property*", have been met and that all statutory requirements for public notice and the providing of an opportunity for meaningful public participation and comment have been met; and,

B. The public has had an opportunity to comment to the draft ordinance in writing and to testify at a public hearing held by the Board of Commissioners on 27<sup>th</sup> day of November, 2012

**Section 2. Adoption.** The document attached hereto as **Exhibit A** entitled **CHAPTER 8.08, *Public Use of County Owned Real Property*** is hereby adopted as Chapter 8 of YCC Title 8.

**Section 3.** Those chapters of Title 8 that are not modified by this ordinance remain as originally adopted and codified in Yakima County Code Title 8, together with all subsequent amendments.

**Section 4. Severability.** The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, sections, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

**Section 5. Effective Date.** This ordinance shall become effective upon adoption.

ADOPTED and PASSED by the Board of County Commissioners of Yakima County, Washington the 4<sup>th</sup> day of December, 2012



ATTEST: Tiera Girard

Clerk of the Board

J. Rand Elliott, Chairman

Michael D. Leita, Commissioner

Excused

Kevin J. Bouchey, Commissioner

*Constituting the Board of County Commissioners  
for Yakima County, Washington*

## EXHIBIT A

### (Under Title 8 – Public Peace, Safety and Morals)

#### Chapter 8.08

#### UNLAWFUL USE OF COUNTY PROPERTY

##### **8.08.010 Purpose.**

The purpose of this ordinance is to manage county owned real property to insure that it is used for purposes that promote the public's health, safety and general welfare through regulation of such properties and to preserve the use of county properties for future public benefit.

##### **8.08.020 Definitions.**

For the purposes of this chapter the following definitions shall apply:

- (1) "Camp" or camping" means to use county property for the purposes of temporary, recreational habitation, as evidenced by the use of camp paraphernalia
- (2) "Camp facilities" include, but are not limited to, temporary shelters, tents, or vehicles and any accessory structures or uses for bathing, cleaning or toilet facilities;
- (3) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-county designated cooking facilities and similar equipment.
- (4) "County property" means and includes public property owned or controlled by Yakima County, including properties managed by the county public services, flood control districts or other public municipalities, and including any other property that is publicly owned or maintained for public use, improved or unimproved.
- (5) "Hours of Operation" are such reasonable periods of time as the county in its own discretion shall determine and post on the site;
- (6) "Enters or Remains Unlawfully" is defined at RCW 9A.52.010(5) and the provisions of RCW 9A.52 are hereby incorporated herein;
- (7) "Posting" means the placement of at least one (1) notice of any applicable prohibitions or conditions of use at a location determined by the county to be the most likely entry point onto the property by members of the public. Posting does not require placement of notice at every conceivable entry location on a specific piece of property;
- (8) "Recreating" includes picnicking, swimming, sunbathing, berry picking and mushroom gathering, or any other activity or use pursued primarily for leisure or other personal benefit;
- (9) "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.

##### **8.08.030 Unlawful Camping, Recreating and Use of Posted County Property.**

- (1) It shall be unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use or store camp or other materials in or on county owned or managed property, or to remain in or recreate outside of the established hours of operation, except as allowed by rules posted at the site by the county, or as otherwise permitted pursuant to other provisions of Title 8.

(2) It shall be unlawful for any person to camp, occupy or use for any purpose county real property that has been posted by the county with a notice of violation of the conditions of use for that property.

**8.14.050 Penalty for Violations.**

Violation of any of the provisions in this chapter is a misdemeanor as defined in RCW 9A.04.040. Any person violating any of the provisions of this chapter shall, upon conviction of such violation, be punished by a fine of not more than one thousand dollars or imprisonment not to exceed ninety days, or both such fine and imprisonment.

**8.14.060 Exceptions.**

The enforcement provided under this ordinance is in addition to the enforcement of other provisions of state law and shall not prohibit enforcement under such laws, including *Trespass* as defined and provided for commencing at RCW 9A.52 et seq., and other provisions of the Washington Criminal Code, Yakima County Code or other administrative agency regulations, or pursuant to any other agreements entered into between Yakima County and other public agencies.

Nothing in this ordinance is intended to prohibit actions that are otherwise lawful under this ordinance or other ordinances by persons using county or adjoining public property for purposes related to recreation or other lawful purposes.

This ordinance shall become effective upon adoption.

PASSED by the Yakima County Board of Commissioners, this 4<sup>th</sup> day of December, 2012