

**TOWN OF HICKORY CREEK, TEXAS
ORDINANCE NO. 2019-05-817**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS, AMENDING ARTICLE 1.10 PARKS AND RECREATION; ARTICLE 4.04 WRECKER SERVICE; ARTICLE 4.05 ALCOHOLIC BEVERAGES; ARTICLE A2.000 BUSINESS RELATED FEES; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FINDINGS; PROVIDING FOR AMENDMENT TO THE CODE OF ORDINANCES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTY; PROVIDING FOR PUBLICATION; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AND EFFECTIVE DATE.

WHEREAS, the Town of Hickory Creek, Texas, is A Type A General Law municipality located in Denton County, Texas created in accordance with the provisions of the Texas Local Government Code and the Texas Constitution and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council is empowered under section 51.012 of the Local Government Code to adopt ordinances necessary for the government, interest, welfare, or good order of the municipality; and

WHEREAS, Texas Occupations Code Subchapter E provides for Local Regulation of Towing and Booting; and

WHEREAS, the Town Council does hereby find and determine that the adoption of this Ordinance is necessary for the government, interest, welfare and good order of the Town; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HICKORY CREEK, TEXAS:

**SECTION 1.
INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2.
FINDINGS**

After due deliberations the Town Council has concluded that the adoption of this Ordinance is in the best interest of the Town of Hickory Creek, Texas and necessary for the government, interest, welfare, and good order of the Town.

SECTION 3.
AMENDMENTS

3.1 That the Town of Hickory Creek Code of Ordinances, Article 1.10 Parks and Recreation; Section 1.10.006 Fees for Use is hereby amended to read:

“(a) The following fees shall be paid to the Town prior to engaging the listed activity or using the listed facility:

- (1) Boat Ramp Daily Use Pass: \$10.00.
- (2) Boat Ramp Annual Use Pass for Hickory Creek Resident: \$35.00.
- (3) Boat Ramp Annual Use Pass for Non-Resident: \$60.00.
- (4) Boat Ramp Two Year Use Pass for Hickory Creek Resident: \$60.00.
- (5) Boat Ramp Two Year Use Pass for Non-Resident: \$110.00.
- (6) Day Use Vehicle Fee: \$2.00.
- (7) Day Use Annual Pass: \$20.00.
- (8) Daily Camp Site Use Fee: \$15.00.
- (9) Pavilion Rental Fee: \$75.00.
- (10) Pavilion Rental Cleaning Fee: \$50.00 (refundable if left in clean condition).”

3.2 That the Town of Hickory Creek Code of Ordinances, Article 4.04 Wrecker Service; Section 4.04.007 Fees Charged for Services; Bills is hereby amended to read:

“Tow Truck Registration; Tow Operator Registration; Fees; Fee Study

(a) All tow trucks that perform consent tows within the Town whose owner has a place of business within the Town are required to register with the Town.

(b) All tow trucks that perform non-consent tows in the Town are required to register with the Town.

(c) All drivers operating a tow truck in within the Town who performs a non-consent tow is required to obtain a permit from the Town. The permit fee for this permit is \$15.00.

(d) The maximum fees that may be charged in connection with a con-consent tow originating in the Town are:

- (1) \$255.00 for a car weighing up to 10,000 lbs.
- (2) \$357.00 for a car weighing more than 10,000 but less than 25,000 lbs.
- (3) \$459.00 per unit for cars weighing more than 25,000 lbs. with a \$918.00 total maximum.

(e) Tow Fee Study:

(1) Three or more towing companies performing, either alone or together, fifty (50) percent or more of the non-consent tows during the preceding calendar year may request a tow fee study. Said request must be made in writing to the police chief. The request must identify the specific fees requested to be reviewed and indicate the requestor's willingness to provide any necessary financial documentation that the Town may deem necessary to conduct the review.

(2) A non-refundable fee of five thousand dollars (\$5,000.00) in the form of a cashier's check payable to the Town must be forwarded to the police chief before the study will be undertaken. This fee is intended to defray the cost of the study.

(3) The tow fee study shall be performed at the direction of the police chief. The methodology used to conduct the study will be established by the finance department of the Town. The finance department shall determine what financial information is necessary to conduct the study, to include, but not limited to financial information requested from non-consent towing companies in the Town. Any and all towing companies joining in the request for a tow fee study must provide all requested financial information. Such information shall be kept confidential to the extent allowed by law.

(4) The tow fee study shall be completed within one hundred twenty (120) days of the date the deposit is paid, and all requested financial information is received, whichever is later.

(5) The findings of the tow fee study shall be presented to the Town Council. Based upon the results of the tow fee study, the Town Council may change the non-consent towing fees. The maximum fees must represent the fair market value of the services of a towing company performing non-consent tows in the Town.

(6) The Town is not required to conduct more than one tow fee study within a two-year time period, measured from the date the Town Council most recently considered a tow fee study.

(7) Nothing in this section shall preclude the Town from undertaking a tow fee study at its own discretion at any time.”

3.3 That the Town of Hickory Creek Code of Ordinances, Article 4.05 Alcoholic Beverages; Section 4.05.004 Pavilion Rental Permit at Arrowhead Park; Subsection (c) is hereby amended to read:

“(c) Permit processing fee; investigation of applicant. An application for a permit to be issued pursuant to this section shall be filed with the chief of police not later than the thirtieth (30th) day before the date scheduled for the commencement of the special event accompanied by a non-refundable permit processing fee equal to \$100.00. Upon the filing of an application for a permit and payment of the required permit processing fee, the chief of police shall investigate each applicant for a permit under this section and make a report to the town administrator before issuance of such permit.”

3.4 That the Town of Hickory Creek Code of Ordinances, Article 4.05 Alcoholic Beverages; Section 4.05.004 Pavilion Rental Permit at Arrowhead Park: Subsections (e) and (f) are hereby created and shall read:

“(e) Miscellaneous Fees. A holder of a permit issued under this Section must, in addition to any other fee required by this Code, pay to the Town:

(1) First Police Department Personnel:

- (A) \$300.00 for presence of two hours or less; and
- (B) \$50.00 per hour for every hour thereafter.

(2) Additional Police Department Personnel or Town Staff:

- (A) \$100.00 for presence of two hours or less; and
- (B) \$50.00 per hour for every hour thereafter.

(f) A permit issued under this Section is revoked by operation of law if the holder of said permit fails to pay a deposit for the expected fees required in this Section and elsewhere in this Code within ten (10) days of the date of issuance of the permit.”

3.5 That the Town of Hickory Creek Code of Ordinances, Appendix A Fee Schedule: Article A2.000 Business Related Fees: Section A2.200 Towing Service Permit Fee is hereby repealed.

3.6 That the Town of Hickory Creek Code of Ordinances, Appendix A Fee Schedule: Article A2.000 Business Related Fees: Section A2.300 Towing Service Fees is hereby repealed.

3.7 All other articles, chapters, sections, paragraphs, sentences, phrases and words are not amended but are hereby ratified and affirmed.

SECTION 4. **CUMULATIVE REPEALER CLAUSE**

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances, or parts thereof, in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided, however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such other Ordinances on this date of adoption of this Ordinance shall continue to be governed by the provisions of such Ordinance and of that purpose the Ordinance shall remain in full force and effect.

SECTION 5.
SAVINGS CLAUSE

All rights and remedies of the Town of Hickory Creek, Texas are expressly saved as to any and all violations of the provisions of any other ordinance affecting utility rates and fees which have secured at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but may be prosecuted until final disposition by the court.

SECTION 6.
SEVERABILITY

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the Town shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 7.
PENALTY

If the governing body of the Town of Hickory Creek determines that a violation of this Ordinance has occurred, the Town of Hickory Creek may bring suit in a court of competent jurisdiction to enjoin the person, firm, partnership, corporation, or association from engaging in the prohibited activity.

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined, except as otherwise provided herein, in a sum not to exceed Five Hundred Dollars (\$500.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 8.
PUBLICATION CLAUSE

The Town Secretary of the Town of Hickory Creek is hereby directed to publish in the Official newspaper of the Town of Hickory Creek, the Caption, Penalty Clause, and Effective Date clause of this Ordinance for two (2) days as required by Section 52.011 of the Texas Local Government Code.

SECTION 9.
ENGROSSMENT AND ENROLLMENT

The Town Secretary of the Town of Hickory Creek is hereby directed to engross and enroll this Ordinance by copying the exact Caption, Penalty Clause, and Effective Date clause in the minutes of the Town Council of the Town of Hickory Creek and by filing this Ordinance in the Ordinance records of the Town.


SECTION 10.
EFFECTIVE DATE

This Ordinance shall become effective from and after its date of passage and publication in accordance with law.

AND IT IS SO ORDAINED.

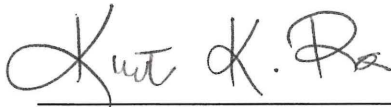
PASSED AND APPROVED by the Town Council of the Town of Hickory Creek, Texas this 21st day of May, 2019.





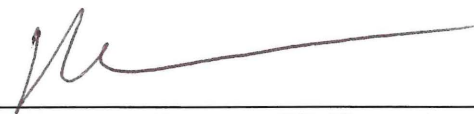
Lynn C. Clark, Mayor
Town of Hickory Creek, Texas

ATTEST:



Kristi Rogers, Town Secretary
Town of Hickory Creek, Texas

APPROVED AS TO FORM:



Dorwin L. Sargent, III, Town Attorney
Town of Hickory Creek, Texas