

ORDINANCE 1037

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, SPECIFYING THE TYPES OF LOCATIONS, ZONE DISTRICTS AND CONDITIONS UNDER WHICH ADULT FACILITIES MAY BE LOCATED IN THE CITY; ADOPTING A NEW CHAPTER, 16.67 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the Planning Commission of the City has considered an ordinance regulating the permitted locations for adult entertainment facilities within the City, held public hearings and taken testimony regarding such proposed regulations and upon the basis of such hearings and testimony, has adopted findings of fact to support recommendation to the City Council for passage of such ordinance, and

WHEREAS, the City Council has reviewed the testimony developed through such public hearings and all other written materials submitted to and by the Planning Commission; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. The City Council finds as follows:

- A. The ordinance to be codified as Chapter 16.67 of the Lacey Municipal Code is consistent with Lacey's comprehensive land use plan for promoting quality residential neighborhoods and ensuring compatibility with uses located in close proximity to the residential neighborhoods.
- B. The proposed ordinance is consistent with Lacey's comprehensive land use plan for location of commercial activities that are regional in nature and automobile-oriented.
- C. The ordinance is a content-neutral ordinance dealing with secondary impacts from adult entertainment facilities and should provide reasonable accommodation of adult entertainment facilities while protecting properties that may be sensitive to such activities.
- D. The proposed ordinance provides reasonable processes and conditions

to be applied to adult entertainment facilities necessary to minimize identified secondary impacts.

- E. The ordinance is based upon research from other jurisdictions, review of literature on the topic, studies of secondary impacts from adult entertainment facilities, testimony from the Lacey Police Department, testimony from citizens that are concerned about the impacts from adult entertainment facilities, and review of court cases dealing with regulation of adult entertainment facilities. The ordinance attempts to balance competing needs in dealing with these facilities.

Section 2. The Council further finds and declares its purpose and intent in adopting Chapter 16.67 of the Lacey Municipal Code as follows:

- A. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the adverse secondary effects of sexually-oriented businesses (adult entertainment establishments).
- B. Based upon a wide range of evidence presented to the City of Lacey, including, but not limited to, the testimony of law enforcement officers and members of the public, and on other evidence, information, publication, articles, studies, documents, case law, and other materials, the City finds sexually-oriented businesses (adult entertainment establishments) create or enhance undesirable secondary effects which include a wide range of criminal and other unlawful activities that have regularly and historically occurred, including prostitution, narcotics, breaches of the peace, assaults and sexual conduct involving contact between the patrons. Secondary land use effects also include impacts to both residential and commercial property, including a change of character, destabilization of neighborhoods, and depressed property values that are destructive to residential areas and certain commercial zones. These secondary effects are inconsistent with goals of the City's comprehensive land use plan. Therefore, it is the intent of this ordinance to mitigate these secondary impacts from adult entertainment establishments.
- C. It is well documented that certain businesses providing live adult entertainment in Tacoma and Seattle are increasingly associated with prostitution, disruptive conduct, and other criminal activity and constitute a threat to the public peace, health, and safety. Undercover information provided to our police officers document such occurrences. This ordinance speaks to these secondary impacts.

- D. Many cities, including surrounding metropolitan areas, have experienced negative secondary land use impacts from adult entertainment activities. The skid row effect described in case studies of Detroit is one of these secondary effects, and is evident in certain parts of Seattle and Tacoma. Such an effect could be significantly magnified in the City of Lacey due to the difference of size and characteristics of the City. This ordinance speaks to this concern.
- E. Secondary land use impacts to residential uses are expected when adult entertainment land uses are located adjacent or in close proximity to residential zones. At a minimum, adult entertainment uses located in close proximity to residential neighborhoods are perceived by residents to have a detrimental impact to the residential character and, therefore, an impact on the suitability of their area for residential use. This can cause a destabilization of the residential area, depressed property values, and have significant detrimental impacts to the health and vitality of the neighborhood. This ordinance speaks to these secondary land use impacts.
- F. Recent experience in Lacey with a proposed adult entertainment use demonstrates the concern of both residential neighbors and commercial landlords and tenants over the secondary effects of location of adult uses in the immediate vicinity of residential and commercial uses. In Lacey, commercial tenants in close proximity to a proposed adult facility feared losing clients because of the incompatibility of the adult use. Tenants questioned the area's viability for continued use by their patrons. Additionally, nearby residents testified that they saw the proposed adult entertainment facility as a significant distraction to their residential quality of life and expected significant adverse impacts to their neighborhood character and property values as a result. This ordinance speaks to these residential and commercial neighborhood concerns.
- G. By land use regulation of adult entertainment land uses it is the intent of this ordinance to prevent deterioration and/or degradation of the vitality of the community.
- H. The City of Lacey land use plan requires that adjacent land uses be compatible. It is the intent of this ordinance to require such compatibility when siting adult entertainment uses.
- I. The City of Lacey comprehensive land use plan requires that regionally-oriented auto-oriented businesses be located away from residential neighborhoods and that only commercial uses serving the everyday commercial services and retail needs of residents be located in close proximity to residential uses. It is the intent of this ordinance to require implementation of this land use strategy in siting of adult entertainment uses.

- J. Adult entertainment land uses are considered incompatible with certain land uses, such as residences, religious facilities, day care facilities, libraries, youth centers, parks and schools, and should be separated and buffered from such uses. It is the intent of this ordinance to implement separation and buffering strategies protecting uses that are incompatible with adult entertainment uses.
- K. In order to avoid the skid row effect, adult entertainment uses need to be separated from one another. It is the intent of this ordinance to implement a strategy to separate adult entertainment uses and avoid skid row effects in Lacey's land use zones.
- L. Careful siting of adult entertainment uses is necessary to properly integrate such uses into compatible land use zones. It is the intent of this ordinance to carefully select certain zones providing for the needs of adult entertainment uses that will minimize impacts to other land uses in the selected zones.
- M. Careful site planning of adult entertainment uses is necessary to properly integrate adult uses among non-adult entertainment uses to avoid conflicts that impact the desirability of the commercial area for existing uses. It is the intent of this ordinance to develop and require implementation of siting techniques to minimize land use impacts from adult entertainment uses upon surrounding land uses.
- N. Lacey's commercial resources are of great importance to the health and welfare of Lacey residents. Design review standards should be used with adult entertainment facilities to promote compatibility with existing uses. Design review also will help implement the vision for providing attractive, competitive commercial areas to encourage expansion of existing businesses and location of new businesses in the area. It is the intent of this ordinance to implement this land use strategy.

Section 3: There is hereby added to the Lacey Municipal Code a new Chapter 16.67 to be entitled Adult Entertainment Facilities and to read as follows:

16.67 Adult Entertainment Facilities

16.67.010 Definitions

- A. Those certain terms used herein which are defined in section 5.40.010 and 5.42.010 of the Lacey Municipal Code shall have the same meaning as set forth in said sections.
- B. The term "Adult Entertainment Facility" shall include all adult-oriented businesses including adult arcades, adult bookstores,

adult novelty stores, adult video stores and similar adult uses and adult live entertainment facilities.

16.67.020 Adult Entertainment Facilities Classified and Permitted

- A. Adult entertainment facilities falling under the definition of adult bookstore, adult novelty store, adult video store or similar adult uses shall be permitted in specific zones and under specific standards identified in Sections 16.67.030 and 16.67.040 through a site plan review process as required by Chapter 16.84.
- B. Adult arcades and adult live entertainment centers shall be permitted in certain zones and under conditions identified under Sections 16.67.030 and 16.67.040 through a conditional use permit process as identified under Chapter 16.87 and 16.66.

16.67.030 Adult Entertainment Facilities Permitted in Certain Land Use Zones Subject to Certain Restrictions and Standards

- A. Adult entertainment facilities falling under the definitions of adult bookstores, adult novelty stores, adult video stores or other similar adult uses may be permitted in the following zones subject to the standards and requirements of Section 16.67.040 and spacing requirements identified below:

1. Land Use Zones Permitted:

- a. Central Business District 2;
- b. Central Business District 3;
- c. General Commercial; and
- d. Light Industrial.

2. Spacing and Buffering Requirements:

- a. No such adult entertainment facility shall be located closer than 330 feet from another adult entertainment facility, whether such other facility is located within or outside the city limits;
- b. No such adult entertainment facility shall be located closer than 330 feet from any sensitive land use or land use zone identified in Section 16.67.050, whether such zone or use is located within or outside the city limits.

3. General Standards:

All the standards of Section 16.67.040 shall apply.

- B. Adult arcades and adult live entertainment facilities shall be permitted in the following zones subject to the standards and requirements of Section 16.67.040 and the spacing and buffering requirements identified below:

1. Land Use Zones Permitted:

a. Light Industrial.

2. Spacing and Buffering Requirements:

a. No adult arcade or adult live entertainment center shall be located closer than 660 feet from another adult arcade or adult live entertainment center nor closer than 330 feet from any other adult entertainment facility, whether such other business is located within or outside the city limits;

b. No adult arcade or adult live entertainment center shall be located closer than 660 feet from any sensitive land use or land use zone identified in Section 16.67.050, whether such zone or use is located within or outside the city limits.

3. General Standards:

All standards of Section 16.67.040 shall apply.

16.67.040 General Standards for Adult Entertainment Facilities

Adult arcades, adult bookstores, adult novelty stores, adult video stores and similar uses, and adult live entertainment centers shall conform to the following general standards.

A. All on-site parking areas and premise entries of adult entertainment uses shall be illuminated from dusk until one hour past closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking strips and/or walkways. An on-premise exterior lighting plan shall be presented to and approved by the Department of Public Works prior to the operation of any such use.

B. All parking must be visible from the fronting street. Access to the exterior rear of the building shall be denied to any persons other than employees or public officials during the performance of their respective duties and tasks by means of fencing as approved by the Department of Community Development.

C. In addition to all on-premise sign requirements of Chapter 16.75, the following signing provisions shall be followed:

1. There shall be no electronic reader boards or changing message center signs;

2. All adult entertainment facilities shall have facades, exteriors, and exits which must be indistinguishable from surrounding buildings. Illustrations depicting partially or

totally nude males and/or females shall not be posted or painted on any exterior wall of the building used for such businesses or on any door or apparatus attached to such building.

- D. All standards of the underlying zone.
- E. Reasonable conditions necessary to properly mitigate bona fide secondary impacts identified during the site plan or conditional use permit review process.
- F. All adult entertainment facilities shall be required to comply with the requirements of Chapter 14.23 to promote compatibility with surrounding land uses in both commercial and the light industrial zones.

16.67.050 Sensitive Land Uses The following uses, properties and zones are considered sensitive as referenced in Section 16.67.030:

- A. Property used for public and private schools;
- B. Property used for public parks;
- C. Property used for public libraries;
- D. Property used for State-certified day care;
- E. Property used for community teen centers;
- F. Property used for churches, cemeteries or other religious facilities or institutions;
- G. Property used for residential and lodging uses and property zoned primarily for residential uses, including LD 0-4, LD 3-6, MD, and HD zones;
- H. Property used for organizations, associations, facilities and businesses which provide, as a substantial portion of their activities, function or business, the provision of services to children and/or youth, so that the premises of the organization, facility or business would have children and youth in attendance or at the location during a predominant portion of the operational hours of an adult entertainment facility.

16.67.060 Measuring Required Distances

The distances between adult entertainment facilities and between adult entertainment facilities and sensitive land uses identified in Section 16.67.050 shall be measured by following a straight line without regard to intervening buildings from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property or the zone classification boundary line from which the proposed land use is to be separated.

16.67.070 Waiver of Distance Requirements

The following procedures and criteria shall be adhered to with regard to a request for waiver of distance requirements:

- A. Distance Waiver Required. Any party proposing to locate an adult facility within less than the required distances from uses or zones as specified in this ordinance may do so only after obtaining a waiver therefor from a hearing examiner through a conditional use permit process.
- B. Waiver Notice Requirements. In addition to the notice requirements for conditional use permits, first class mailing notice shall be made to all parties within the distance set forth in Section 16.67.030A or 16.67.030B, depending upon the use in question. The applicant shall provide the names and addresses of all property owners and businesses within said distances from the proposed use.
- C. Criteria for Decision. The final decision on the request for waiver of distance shall be made by the hearing examiner based on consideration of the following:
 - 1. The extent to which the physical features would result in an effective separation in terms of visibility and access;
 - 2. Compatibility with adjacent and surrounding land uses;
 - 3. The availability or lack of alternative locations for the proposed use;
 - 4. Ability to avoid the adult facility by alternative vehicular and pedestrian routes.

16.67.080 Intervening Uses

Sensitive land uses specified in Section 16.67.050 shall not be allowed to locate within the specified distances to an adult entertainment facility. Any party proposing to locate such a use or zone within the specified distances of an adult entertainment facility may do so only after obtaining a distance waiver pursuant to the provisions of Section 16.67.070 of this code regarding waiver of distance requirements.

16.67.090 Adult Entertainment Facilities Forbidden in Other Zones

Adult arcades, adult bookstores, adult novelty stores, adult video stores, and similar adult uses, and adult live entertainment facilities shall be limited to the zones specified for such uses in Section 16.67.030 and shall be forbidden in all other zones within the City of Lacey.

16.67.100 Adult Entertainment Facilities Effect on Other Laws

Provisions of this chapter shall not have the effect of authorizing any activities prohibited by State law or other provisions of this code.

Section 4: Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or application, other provisions, other persons or circumstances shall be unaffected.

Section 5: The summary of this Ordinance, which is attached hereto, is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON,
this 27TH day of JUNE, 1996.

CITY COUNCIL

By

Nancy Peterson
Mayor

Attest:

Approved as to form:

Carol Titter
City Clerk

[Signature]
City Attorney

Published: 6/30/96

SUMMARY FOR PUBLICATION
ORDINANCE 1037

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on JUNE 27, 1996, Ordinance No. 1037 entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, SPECIFYING THE TYPES OF LOCATIONS, ZONE DISTRICTS AND CONDITIONS UNDER WHICH ADULT FACILITIES MAY BE LOCATED IN THE CITY; ADOPTING A NEW CHAPTER, 16.67 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

A section by section summary of this Ordinance is as follows:

Section 1 sets out certain findings made by the City's Planning Commission and the City Council which in part form the basis for the ordinance.

Section 2 sets forth further findings of the Council and declares its purpose and intent in adopting a new chapter 16.67 of the Lacey Municipal Code relating to the location of adult entertainment facilities.

Section 3 adds a new chapter, 16.67 to the Lacey Municipal Code entitled "Adult Entertainment Facilities." A section by section summary of this new chapter to the Lacey Municipal Code is as follows:

Section 16.67.010 declares that the terms defined in LMC section 5.40.010 relating to adult businesses and in LMC section 5.42.010 relating to adult live entertainment centers will be applicable to those same terms used within this new chapter. This section also defines the term "adult entertainment facility" to include all adult oriented businesses including adult arcades, adult bookstores, adult novelty stores, adult video stores and similar adult uses as well as adult live entertainment facilities.

Section 16.67.020 sets forth two classifications of adult entertainment facilities with the first being adult bookstores, adult novelty stores, adult video stores and similar adult uses and the other being adult arcades and adult live entertainment centers.

Section 16.67.030 specifies the land use zones and the spacing and buffering requirements for each of the classifications of adult entertainment facilities.

Section 16.67.040 sets forth general standards for adult entertainment facilities including parking locations and lighting, on premise sign requirements and the requirements for compliance with certain other sections of the code.

Section 16.67.050 identifies sensitive land uses and sensitive zones for the purpose of specifying which areas and zones are subject to the distance buffering requirements between adult entertainment facilities and such uses and zones.

Section 16.67.060 describes the method of measuring the required spacing distances.

Section 16.67.070 provides a procedure for application to waive the distance requirements.

Section 16.67.080 specifies that sensitive land uses may not be located within the buffer zone earlier specified after an adult entertainment facility has been sited without receiving a waiver of the distance requirement.

Section 16.67.090 makes it clear that adult entertainment facilities are forbidden from locating in zones other than those specified in this chapter.

Section 16.67.100 provides that this new chapter shall not have the effect of authorizing any activities otherwise prohibited by state law or other provisions of the Lacey Municipal Code.

Section 4 is a severability clause specifying that if any portion of the ordinance is declared invalid it will not have an effect on the rest of the ordinance.

Section 5 approves this summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: June 30, 1996, 1996.
(Sunday)