

ORDINANCE 1163

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO THE LOCATION AND APPROVAL REQUIREMENTS FOR STREET MERCHANT ACTIVITIES WITHIN THE CITY, ADDING A NEW CHAPTER, 16.70 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

BE IT ORDAINED by the City Council of the City of Lacey, Washington as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter 16.70 to read as follows:

Chapter 16.70

STREET MERCHANTS

Sections:

- 16.70.010 Intent
- 16.70.020 Definitions
- 16.70.030 Licensing and site plan review application and approval required
- 16.70.040 Design standards for retail stands
- 16.70.045 Approved retail stand merchandise
- 16.70.050 General location standards
- 16.70.060 Specific location standards
- 16.70.065 Leasing of City property for retail stand activities
- 16.70.070 Insurance
- 16.70.080 Permit limitations
- 16.70.090 Permit revocation

16.70.100 Appeals

16.70.010 Intent. The intent of this chapter is to:

- A. Provide an opportunity for street merchants in zones where the use would enhance the pedestrian experience and be supportive of the intent and vision of the commercial zone in which it's located.
- B. Provide regulations for the appropriate siting and design of street merchant activities to provide for the compatibility of such use with adjacent retail activities.
- C. Provide standards that protect the public's health, safety and welfare with operation of these activities.

16.70.020 Definitions.

- A. "Handcrafted goods" means goods produced or created by the vendor from raw or basic materials.
- B. "Original art" means art crafted by the vendor or by artists the vendor acts as agent to on consignment of the art work.
- C. "Outdoor shopping center activities and events" means activities normally taking place in parking lots of shopping centers from time to time on a temporary basis. Activities include, but are not limited to, promotions or special showings and sale of boats and recreation vehicles or miscellaneous activities such as pony rides and carnival activities. Such activities attract consumers to the shopping center, both the travelling public and pedestrians in the area, and add flavor to the shopping experience. Activities do not significantly impede parking or circulation at the site or adversely affect permanent businesses in the area.
- D. "Retail stand" means a small cart or structure used for retail sale of approved merchandise. The cart or structure is operated from a fixed location within a parking lot, pedestrian plaza, public property or right-of-way and designed and sized to be readily moved.
- E. "Street fair or market" means a location where multiple street merchants and activities are organized as one function, including but not limited to, the Lacey Fun Fair or a seasonal farmers' market.

- F. "Street merchant" means a merchant selling goods from a fixed location within a parking lot, pedestrian plaza, public property or right-of-way using a cart, vehicle, or temporary structure.
- G. "Temporary/Seasonal retail stand" means a stand to sell seasonal retail items on a temporary basis. These include fireworks stands, if allowed, Christmas tree stands and local agricultural fruit stands.

16.70.030 Licensing and site plan review application and approval required.

- A. All business activities shall meet requirements of Chapter 5.12 for City business licensing.
- B. Site plan review approval required:
 - 1. No "street merchant", "street fair or market", "temporary/seasonal retail stand" or "outdoor shopping center activities and events" shall be permitted to operate within the City of Lacey without first obtaining site plan approval pursuant to the requirements of Chapter 16.84.
 - 2. All street merchants must operate from an approved retail stand or temporary/seasonal retail stand or approved street fair or market or as outdoor shopping center activities and events and must be approved by the site plan review committee. One combined approval may be given for street merchant activities within street fairs or markets or as part of an outdoor shopping center activity or event.
- C. Site plan review application. Street merchant applications shall include detailed scale drawings of the location of the stand, the device to be used, materials specifications and drawings showing all four sides of the vending device and any logos, printing or signs which will be incorporated. Color schemes must be indicated on the drawings. For existing vending devices, color photographs may be substituted for drawings. The application shall contain a plan for scheduled hours of operation for the season that includes time of day, days of week, months of the year, and scheduled closings. Written approval of the landowner shall also be submitted at the time of application.
- D. Permitted street merchant activities. The site plan review committee may only approve street merchant activities meeting the definition of retail stands and temporary/seasonal retail stands. Provided the committee may approve street fairs or markets or outdoor shopping center activities and events for fixed temporary periods based upon findings consistent with the intent of this chapter.

E. Site plan review committee consideration and decision.

1. The site plan review committee shall review each application for consistency with the standards and intent of this chapter.
2. The site plan review committee shall review each merchant's proposal with major emphasis upon how the proposal will enhance the attractiveness of the pedestrian environment in which it is located.
3. All street merchant activities shall be designed, oriented and operated to serve pedestrians with the exception of temporary/seasonal retail stands located in parking lots.
4. Based upon consideration of the application and its consistency with the intent and standards of this chapter, the committee may approve or deny an application. In approving an application, the committee may require any conditions on operation, location or design it deems necessary to ensure compliance with this chapter.
5. The committee may also administratively approve any variances from the standards section of this chapter it deems necessary to fully satisfy the intent of this chapter to provide an exceptional pedestrian experience at strategic locations within the City.
6. When authorizing variances to retail stand criteria, the applicant should demonstrate to the committee's satisfaction the approved design will be compatible with surrounding architecture, will add to the pedestrian desirability of the area, and will be a benefit to the neighborhood and zone in which it is located.

16.70.040 Design and development standards for retail stands. A small retail stand shall generally comply with the following requirements:

1. Retail stands will normally not be more than 60 square feet provided the site plan review committee may approve any size of retail stand it determines meets the spirit and intent of this chapter.
2. A canopy or umbrella may be included with the stand. The canopy or umbrella shall be of vinyl, canvas, or similar durable material. All parts of such umbrella or canopy must have a minimum of 7 feet of vertical clearance to the ground.

3. Retail stand materials shall be low maintenance and cleanable, preferably painted and of non-corrosive metal.
4. Temporary/seasonal retail stands may be of the size necessary to carry out their temporary operations as approved by the site plan review committee.
5. Each retail stand shall be a self-contained unit; provided, however that self-contained electrical power generators are not permitted unless the site plan review committee determines noise impacts can be mitigated. Utility service connections may be permitted at permanent street merchant pads at the discretion of the City. Electrical service connections may be permitted by a property owner leasing space to a street merchant or by the adjacent property owner and when the following requirements are met:
 - a) electrical lines are not allowed overhead or lying on the sidewalk.
 - b) the outlet location must be placed outside the walkways which are accessible to public and private use.
 - c) length of electrical hookup must be within 15 feet of the stand.
 - d) no extension cords will be allowed.
 - e) hookup must be permanently wired to the retail stand and meet National Electrical Code requirements as to type, size and grounding, terminating in an approved outside weatherproof type receptacle.
 - f) each retail stand shall require an electrical permit unless previously approved, and will require inspection prior to operation of the stand.
6. Advertising signs may only be placed on the cart. Provided street merchants selling food or non-alcoholic beverages within pedestrian plazas may have one sandwich board sign with a menu and prices which would be limited to 2 feet wide and 4 feet high. Such sandwich board sign must be located within the pedestrian plaza and oriented to pedestrians at the site.
7. All required licenses and permits issued by the City of Lacey must be displayed in a prominent, visible manner.
8. Retail stand operations must have a permit from the Thurston County Health Department when required and must comply with all applicable Health Department requirements.
9. All persons conducting a retail stand business within the City must keep the site clean and orderly at all times and pick up any refuse or debris and clean up liquid spillage deposited by any person using the business location. Additionally, all

such persons shall provide a refuse container for litter. This container shall be of a design approved by the City and must be emptied on a regular basis.

10. Support equipment and accessories shall generally be self-contained within the retail stand. Support equipment and accessories must not be placed so as to impede pedestrian or vehicular traffic or distract from the pedestrian experience.
11. Retail stands selling food within a pedestrian plaza may have accessory seating and tables. Retail stands selling art and crafts may have merchandise displays set up adjacent to the retail stand for pedestrian view only. Art and craft displays shall be approved by the site plan review committee only when the site plan review committee determines such accessories will enhance the pedestrian experience at the site and be compatible with the intent of the zone and neighborhood in which it is located.
12. Noise-making devices designed to attract attention and loud shouting or yelling to attract attention are prohibited.
13. All persons conducting a retail stand business shall obey any order of a police officer to temporarily move such retail stand to avoid congestion or obstruction of the surrounding area for pedestrian and/or vehicular traffic.
14. All retail stands shall have fire extinguisher(s) available according to current Uniform Fire Code requirements.

16.70.045 Approved retail stand merchandise. The following merchandise may be sold from retail stands:

- A. food
- B. non-alcoholic beverages
- C. newspapers and magazines
- D. original art and handcrafted goods
- E. other items the site plan review committee determines are appropriate to pedestrian areas that will enhance the pedestrian experience.

16.70.050 General location standards.

- A. Retail stands may only be located in the following zones:
 - 1. All commercial zones
 - 2. All light industrial zones
 - 3. Business park zone
 - 4. Mixed high density corridor and mixed moderate density corridor
 - 5. Along arterials and collectors at key multimodal intersections in pocket parks or pedestrian plazas as approved by the site plan review committee based upon findings that it will enhance the local pedestrian experience.
 - 6. Open space institutional zones.
- B. Retail stand locations shall be compatible with the pedestrian and the vehicular nature of the zone, the use of the right-of-way as a public thoroughfare, the use of parking lots as public parking areas, and/or the use of an open air plaza. The site shall be located to enhance the pedestrian nature of the zone and shall not be located so as to attract or serve vehicular traffic.
- C. Temporary/seasonal retail stands may be located to attract and serve vehicle traffic.
- D. In determining whether or not the proposed location would be permitted, the following criteria shall be considered:
 - 1. The type and intensity of the proposed use and the type and intensity of existing uses;
 - 2. The width of the sidewalk, pedestrian plaza or parking lot in which it is to be located;
 - 3. The proximity and location of existing street furniture, including but not limited to signposts, lampposts, bus shelters, benches, phone booths, trees, newsstands, as well as the presence of bus stops and truck loading areas;
 - 4. Established or proposed pedestrian and vehicular traffic patterns;

5. The number of available retail stand sites in a given area or zone of the City and the number of existing retail stands in such area.
 6. Other factors deemed relevant by the site plan review committee, consistent with the purpose of this chapter and intent of the zone proposed for the use.
- E. The retail stand and location shall promote the diversity of retail stand activity;
 - F. The site and retail stand together shall not create a pedestrian or vehicular traffic hazard;
 - G. The retail stand shall be compatible with uses in the general vicinity and adjacent properties;
 - H. The retail stand location shall promote the pedestrian nature of the general area in which it is located;
 - I. The retail stand location shall be compatible with the public interest in the use of the sidewalk as a public right-of-way and the use of a public or private parking lot for the primary intended use of vehicular parking and, as such, shall not endanger the public health, safety and welfare.

16.70.060 Specific location standards.

- A. When the abutting owner or tenant has submitted to the site plan review committee written request for denial or restrictions of the retail stand site, the site plan review committee shall give due consideration to the impact that the retail stand would have on abutting property owners' business and duty to maintain the sidewalk area. No retail stand shall be placed abutting a business which specializes in an item that the retail stand offers for sale unless the applicant owns the establishment or has written consent from the proprietor of the establishment, e.g., a retail stand selling ice cream may not be located abutting an established ice cream parlor.
- B. If neighboring owners have submitted written requests for denials or restrictions, the site plan review committee shall give similar consideration based on distance from the site and impacts to such neighboring owners.
- C. Each retail stand shall be placed so it does not obstruct or impede pedestrian or vehicular traffic.

- D. Each retail stand shall be limited to one assigned location. In the event that two or more applications for the same location are received, the general locational standards of this chapter shall be used to determine which application, if approved, shall be assigned the location. Only one permit may be issued for each approved location and, normally, no permit will be issued for a location within 50 feet of another approved location which already has a permit issued. Provided the site plan review committee may vary from this standard where it finds that the pedestrian experience will be enhanced by such close location of retail stands.
- E. Only one retail stand site shall be approved for each pedestrian plaza or pocket park or parking lot unless the site plan review committee finds that additional stand(s) would be consistent with the intent of this chapter to promote the pedestrian experience and will not adversely impact pedestrian or vehicular circulation or be detrimental to the intent and vision for the surrounding zone.
- F. Any retail stand located in a parking lot shall comply with the following minimum standards:
1. The retail stand shall not block entrances and exits to the parking lot or fire exit doors of any buildings;
 2. A retail stand shall only be permitted in parking lots containing more than 20 parking stalls;
 3. Retail stands should normally not occur in parking spaces directly in front of entrances or windows of the building;
 4. The retail stand shall comply with all other applicable City ordinances.
- G. No retail stand shall be located within 8 feet of an abutting property.

16.70.065 Location and leasing of City property for retail stand activities. The site plan review committee may designate approved retail stand sites in any zone approved for such use on publicly owned parks, pedestrian plazas or City right-of-way on sidewalk or streetside. In doing so, the number of approved sites shall be limited to what the site plan review committee determines is appropriate to the pedestrian experience of the site and consistent with the intent and vision of the zone in which it is located. The site plan review committee must also find that the location of such retail stand space will not adversely affect pedestrian or vehicular traffic flow or create any undue hazard and will generally meet location criteria of Sections 050 and 060. In

such cases, the City may competitively lease such spaces to street vendors consistent with policy for leasing of vending spaces to private entrepreneurs in City parks.

16.70.070 Insurance. If an area to be approved for a retail stand is City-owned, such as a sidewalk or street right-of-way, the applicant must obtain and retain public liability and property damage insurance coverage, naming the City as a co-insured, and must sign an agreement to indemnify and hold the City harmless. The amount of coverage shall be determined by the City.

16.70.080 Permit limitations.

- A. A retail stand site plan review approval may not be transferred to another person or to a location other than that stated on the permit.
- B. Retail stands issued for public right-of-way or public property shall normally be reviewed once every year and may be extended each year for additional one-year increments if the site plan review committee finds that the retail stand has been operated in a way to enhance the pedestrian experience and is still a benefit to the zone in which it is located. When granting extensions, the committee may attach additional conditions to an approval it deems necessary to comply with this chapter or new City regulations. This shall not prohibit the City from entering into multiple year contracts if such is considered appropriate for the site and consistent with City policy.
- C. Any permit or approval issued by the City for a retail stand on private property does not affect the permittee's responsibility to secure and maintain a contract or written approval from the property owner.

16.70.090 Permit revocation. The site plan review committee may immediately revoke or suspend a permit or deny either the issuance or renewal thereof if the committee finds that:

- A. The applicant or permittee has violated or failed to meet any of the provisions of this chapter or conditions of the permit;
- B. The cart or operation is detrimental to the surrounding businesses or to the public due to either appearance or condition of the stand;
- C. Any required licenses have been suspended, revoked or cancelled;

- D. The applicant or permittee does not have a current, effective insurance policy in the minimum amount provided in this chapter;
- E. The scheduled hours of operation are not followed; or
- F. The property owner has withdrawn approval or revoked the contract allowing the use on his/her property.

Upon denial, suspension or revocation, the site plan review committee shall notify the applicant or permittee in writing of the action the committee has taken and the reasons therefore. After giving such notice by mail or in person, if the retail stand has not been removed within 15 days, the City may cause a removal of any retail stand found in violation of this chapter, and is authorized to store such stand until the owner thereof shall redeem it by paying the removal and storage charges.

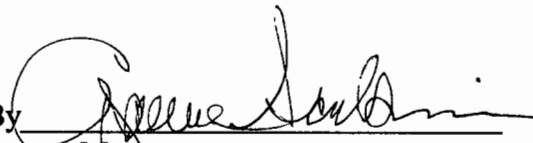
16.70.110 Appeals.

- A. Any person aggrieved by a decision of the site plan review committee may appeal the site plan review committee's decision pursuant to the requirements of L.M.C. Chapter 16.84.

Section 2. 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 26th day of July, 2001.

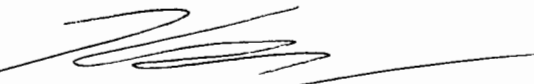
CITY COUNCIL

By 
 Mayor

Attest:

Approved as to form:


 City Clerk


 City Attorney

Published: July 30, 2001

Monday,

SUMMARY FOR PUBLICATION

ORDINANCE 1163

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on July 26, 2001, Ordinance No. 1163, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO THE LOCATION AND APPROVAL REQUIREMENTS FOR STREET MERCHANT ACTIVITIES WITHIN THE CITY, ADDING A NEW CHAPTER, 16.70 TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance requires approval of the City's Site Plan Review Committee prior to the operation of street merchant, temporary/seasonal retail stand, street fair or market, and outdoor shopping center activities and events.
2. The Ordinance sets forth the guidelines to be followed by the Site Plan Review Committee in approving the location of such activities. These guidelines include the design of booths, stands or other temporary buildings and the location of such activities in relationship to established businesses. Such retail stands are restricted to the City's commercial, light industrial, business park and open space institutional zones and to mixed high-density corridors, mixed moderate density corridors and along arterials and collectors at key multi-modal intersections in pocket-parks or pedestrian plazas.
3. All such activities shall benefit pedestrians within the City with the exception of temporary/seasonal retail stands, which may cater to the motoring public.
4. Consideration of the objections of abutting or neighboring property owners and business establishments is required by the terms of the Ordinance.
5. The Ordinance allows combined approval for all street merchant activities within street fairs or markets and as part of an outdoor shopping center activity or event.

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: July 30, 2001, 2001.

Monday.

Charlotte M. Taylor
City Clerk