

ORDINANCE NO 1307

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATING TO TEMPORARY HOMELESS SHELTERS, ASSURING THE HEALTH, SAFETY AND WELFARE OF BOTH THE RESIDENTS OF SUCH SHELTERS AND THE CITIZENS OF THE CITY OF LACEY AND ADDING SECTIONS 16.06.372, 16.06.374, 16.06.671 AND A NEW CHAPTER, 16.64, ALL TO THE LACEY MUNICIPAL CODE AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, the City recognizes that homelessness is a problem within Thurston County and;

WHEREAS, the City finds that while temporary shelters may provide an interim measure of relief from homelessness, temporary shelters are not permanent solutions to the problem nor are they intended to be and;

WHEREAS, the City has determined that temporary shelters must be safe and sanitary and finds guidance in state and local laws, regulations and practices pertaining to health and safety and;

WHEREAS, the City finds that Host Agencies of temporary shelters have a responsibility to assure the health and safety of temporary shelter residents as well as the surrounding community and;

WHEREAS, in other jurisdictions through legislation, permitting, and court orders, temporary shelters have been subject to health and safety regulations, codes of conduct, zoning laws and other conditions and;

WHEREAS, the City has a compelling interest in the protection of the health and safety of all of its residents as well as the enforcement of its zoning laws and;

WHEREAS, many houses of worship are conditional uses that are located in zones throughout the City and;

WHEREAS, the recent history of temporary shelters in other jurisdictions demonstrates a critical need for public involvement in the process of permitting and siting temporary shelters, including adequate notice to provide an opportunity for community members to comment upon the application and to exercise their fundamental right to petition the government and an opportunity for review and processing of a permit by City staff and;

WHEREAS, the City's Comprehensive Plan supports establishing and enforcing land use regulations to further a variety of goals including ensuring compatibility between adjacent land uses, protecting public health and safety and including public participation in land use actions and;

WHEREAS, the City Planning Commission held a public hearing to consider this proposed zoning ordinance amendment and;

WHEREAS, the City Council finds that the potential adverse impacts on the health, safety, and welfare of both the citizens of the City and the homeless population resulting from not having adequate standards for homeless shelters justify adoption of this zoning ordinance amendment and;

WHEREAS, the City Council finds that the amendments to the land use code contained in this ordinance support the health, safety, and welfare of the citizens of the City of Lacey.

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

Section 1: The City Council hereby makes the following findings of fact in support of the Homeless Shelter Ordinance:

A. The above recitals are hereby incorporated as findings of fact.

- B. Temporary access to a secure building would provide safety to homeless persons as they would be temporarily protected from exposure to the elements.
- C. Temporary Homeless shelters are intense land uses that have located for approximately 90 days in other jurisdictions and have located in various land use districts including residential districts and in close proximity to private residences, schools, daycare facilities, and businesses.
- D. An administrative permitting process to review, condition, and approve homeless shelters would be beneficial. Such a process can provide the opportunity for adequate planning and response to ensure consideration of the health, safety, and welfare of both shelter residents and residents of the surrounding area. An administrative land use review process will also provide the ability to enforce generally applicable code provisions and regulations pertaining to zoning, public health, safety, and welfare.
- E. The City's Land Use Element and Housing Element of the Comprehensive Land Use Plan contain goals and policies for protecting the quality, character and compatibility of the City's residential areas.
- F. Existing development regulations governing homeless shelters are not sufficient to protect the public interest regarding the public health, safety and welfare.
- G. In order to safeguard the public interest, to protect the public welfare, and to ensure compatibility with adjacent land uses, development standards should be established.
- H. The City will likely receive requests to host a homeless shelter which if vested under existing regulations may result in a homeless shelter incompatible with surrounding development.

- I. The new zoning standards will allow the opportunity for the City to review applications for homeless shelters and apply development standards that reflect input from host agencies and the public.
- J. The new zoning standards will benefit the homeless community by providing a mechanism for religious institutions to temporarily host homeless shelters to serve as a temporary mitigative action. The standards will also benefit the general public by providing its governmental representatives an opportunity to review and condition such facilities to promote the public's general health, safety, welfare, use and interest.

Section 2: There is hereby added to the Lacey Municipal Code a new section, 16.06.372, to read as follows:

16.06.372 Homeless Shelter. "Homeless Shelter" means a permanent building existing as of the date of this ordinance and used by a religious organization to provide temporary housing for homeless persons.

Section 3: There is hereby added to the Lacey Municipal Code a new section, 16.06.374, to read as follows:

16.06.374 Host Agency. "Host Agency" means a religious organization that owns or has a leasehold interest in property to be used for a temporary homeless shelter that makes an application for a Temporary Use Permit for providing basic services and support to temporary homeless shelter residents.

Section 4: There is hereby added to the Lacey Municipal Code a new section, 16.06.671, to read as follows:

16.06.671 Religious Organization. "Religious Organization" means organizations and institutions developed for the purposes of religious exercise and considered protected under The Religious Land Use and Institutionalized Persons Act (RLUIPA). Particularly relevant in

the context of this ordinance is a religious organization whose religious activities and beliefs typically include providing basic needs such as homeless shelters, meals, and assistance to the poor and needy.

Section 5: There is hereby added to the Lacey Municipal Code a new chapter, 16.64, to read as follows:

16.64 Homeless Shelters.

16.64.010 Who May Apply. Homeless shelters shall be permitted only as an accommodation of religious exercise by a Host Agency. Each Host Agency shall apply for a permit under this Section and shall certify compliance with all applicable requirements for approval and conditions of this Chapter and the application.

16.64.020 Applicable Procedures. A Homeless Shelter Permit is an administrative determination as identified in section 1C.030 (Limited Administrative Review) of the City of Lacey Development Guidelines and Public Works Standards. In addition to the requirements for administrative determinations found in Section 1C.030 of the Development Guidelines and Public Works Standards the following additional procedures apply:

- A. Advance Notice Required. The Host agency shall notify the City of the proposed homeless shelter a minimum of thirty 30 days in advance of the proposed date of establishment for the homeless shelter. The advance notification shall contain the following information:
 - 1. Date: The date the homeless shelter intends to begin operation;
 - 2. Length: The length of time expected for operation;
 - 3. Residents: The maximum number of residents proposed;
 - 4. Location: The host location;
 - 5. Host Name: The name of the Host Agency; and

6. Site Plan: The location, dimensions, and layout of the shelter on site.
- B. North Thurston Public Schools Notified. Upon receipt of an application the Director shall send a copy of the application to the administrative offices of the North Thurston Public Schools for its review and consideration.
- C. Public Meeting Required. The Host Agency shall conduct at least one (1) public information meeting within or as close as possible to the neighborhood where the proposed homeless shelter will be located. The meeting shall be held a minimum of 14 days prior to the issuance of the temporary use permit. The time and location of the meeting shall be agreed upon between the City and Host Agency. All property owners and all organizations, businesses, or persons that lease/rent property within 300 feet of the proposed homeless shelter site shall be notified by the Host Agency a minimum of 14 days in advance of the meeting. Notification may be by mail, phone, or personal contact.
- D. Signs Required. In addition to the notification described above, the applicant shall provide notice of the application by posting two signs or placards on the site, or in a location immediately adjacent to the site, that provide visibility to motorists using adjacent streets. Timing for placing signs shall coincide with other notification requirements described above. The Director of Community Development shall establish standards for size, color, layout, design, placement, and timing of installation and removal of the signs or placards.
- E. Plan for Tracking. Included in the application shall be a plan for tracking the residents. The plan shall provide for a comprehensive review of who has resided at the shelter, how long each resident used the shelter, when each

resident left the shelter, and why each resident left the shelter – whether for permanent housing, for other temporary housing, or for a different reason. The intent shall be to track the effectiveness of the shelter in handling resident's housing needs on a temporary basis and providing a hand up for the purpose of finding more permanent housing opportunities. This information may be used by the Council in considering the longevity and continuation of the Homeless Shelter Ordinance.

16.64.030 Requirements for Approval. The Community Development Director or designee may issue a temporary and revocable permit for a homeless shelter subject to the following criteria and requirements:

- A. Compliance with Building Codes: A Homeless Shelter shall comply with the requirements of the City's adopted building codes. However, pursuant to RCW 19.27.042, the Building Official shall have authority to exempt code deficiencies so long as such deficiencies pose no threat to human life, health, or safety.
- B. Site Criteria:
 - 1. Ownership: The Host Agency shall submit documentation that it owns or has a leasehold interest in the subject building.
 - 2. Size: The building must be sufficient in size to accommodate the residents and must have necessary on site facilities including but not limited to the following:
 - a) Adequate water supply;
 - b) Sanitary toilets in the number required to meet capacity guidelines;

- c) Hand washing facilities by the toilets and by any food areas;
 - d) Refuse receptacles and;
 - e) Kitchen facilities for food preparation.
- C. Health: All necessary sanitary facilities shall be provided. All applicable health standards for providing such facilities, and for use of such facilities, shall be satisfied as required by the Health department.
- D. Sensitive Areas: No homeless shelter shall be located within a sensitive or critical area or its buffer as defined under Title 14 of the LMC.
- E. Permanent Structures: No new permanent structures shall be constructed for the homeless shelter.
- F. Limitation on Residents: No more than 40 residents shall be allowed. The City may further limit the number of residents as site conditions dictate.
- G. Parking: Adequate on site parking shall be provided for the homeless shelter. No off site parking will be allowed. Parking space for the number of vehicles used by homeless shelter residents and staff shall be provided. If the homeless shelter is located on a site with another use, it shall be shown that the homeless shelter parking will not create an undue shortage of on site parking for the other use(s) on the property.
- H. Public Transportation: Whenever possible, the homeless shelter should be located within a quarter (1/4) mile of a bus stop with service seven (7) days per week. If not located within a quarter mile of a bus stop, the Host Agency must demonstrate the ability for residents to obtain access to the nearest public transportation stop (such as carpools or shuttle buses).

- I. Distance Requirements to sensitive land uses: Because a homeless shelter is a non traditional living arrangement and therefore provides less privacy and more complex living arrangements than traditional homes, a distance requirement that provides visual separation and buffering from other sensitive land use activities is considered appropriate. To satisfy this concern, no shelter shall be permitted within 300 feet of a licensed child daycare facility or any public or private pre-school or elementary school. However, in the event that a daycare or school is located within the property of a potential Host Agency, this requirement may be waived by the Director if the owner of the daycare or school principal agrees to the waiving of the distance requirement.
- J. Security:
1. Operations and Security Plan: An operations and security plan for the homeless shelter shall be submitted to the City at the time of application.
 2. Code of Conduct: The Host Agency shall ensure that the homeless shelter has an enforceable code of conduct. A copy of the Code of Conduct shall be submitted to the City at the time of application, and shall be in substantially the following form or address the following issues:
 3. Drugs – possession or use of illegal drugs is not permitted;
 4. Alcohol – no alcohol is permitted;
 5. Weapons – no weapons are permitted;
 6. Knives – all knives with blades over 3 and 1/2 inches must be turned in to the on duty responsible person at the entry/host tent for safekeeping;

7. Violence – no violence is permitted;
8. Fires – no open flames are permitted. An exception may be made for propane heating or other similar appliance if approved by the fire marshal;
9. Trespassing – no trespassing into private property in the surrounding neighborhood is permitted;
10. Loitering – no loitering in the surrounding neighborhood is permitted;
11. Littering – no littering on the Homeless Encampment site or in the surrounding neighborhood is permitted.
12. In addition to the above standards, the Host Agency may adopt and enforce additional Code of Conduct conditions not otherwise inconsistent with this Section.

16.64.040 Community Development Director's Decision. The Community Development Director shall review the proposal for compliance with the provisions of this chapter and all other applicable law. Said review shall ensure that the health, safety, and welfare of the citizens of the City are preserved, and shall provide an expedient and reasonable land use review process for decisions and interpretations of this chapter. The Director may modify the submittal requirements as deemed appropriate. The Director shall notify the Host Agency of his or her decision to approve, modify, or deny the application within a timely manner, but not prior to 14 days after the public meeting.

16.64.050 Requirements upon approval.

- A. Sign Agreement: All homeless shelter residents must sign an agreement to abide by the Code of Conduct. Failure to do so shall result in the

noncompliant resident's immediate and permanent expulsion from the property.

- B. Log: The Host agency shall keep a log of all people who stay overnight in the shelter. The log shall include names, birth dates, and dates of stay. Logs shall be kept a minimum of 6 months.
- C. Identification: The Host agency shall require verifiable photo ID of prospective and current shelter residents. Acceptable forms of ID include a driver's license, government issued identification card, military identification, or passport. Replacement of lost ID can be facilitated through an appropriate advocacy center. Photo ID is necessary to verify ones identity and to apply for services, housing, and employment. If verifiable photo ID cannot be obtained, the individual must agree to be fingerprinted or will not be admitted to the camp.
- D. Warrant and Sex Offender Status Check: The Host Agency shall engage the Lacey Police Department to use the photo identification to check for outstanding in-state and out-of-state warrants and registered sex offender status. When necessary, the Lacey Police Department will provide fingerprinting services. The Lacey Police Department shall provide background checks and fingerprinting services at no charge to the Host Agency.
 - 1. Outstanding Warrants – if said warrant check reveals an existing or outstanding warrant from any jurisdiction in the United States, the Host Agency will immediately report the finding to the Lacey Police Department for apprehension of the subject individual.

2. Sex Offender Status – if the check reveals the applicant to be a registered sex offender, the individual shall not be admitted to the camp.
- E. Shelter Security: The Host Agency shall ensure the shelter is secure and managed to strictly prohibit alcohol, drugs, weapons, fighting, abuse of any kind, littering, or disturbing the neighbors while located on the property. As necessary, the Lacey Police Department will be available to enforce state and local laws.
 - F. Entrance: The Host Agency shall ensure there is an entrance that is manned 24 hours a day 7 days a week. The entrance may be staffed by a volunteer, shelter resident, Host Agency Committee member, or other responsible person.
 - G. On Call Committee Member: The Host Agency will appoint an executive committee member to serve on call and be available for the entrance person at all times. The on call committee member shall be available to provide help and assistance to the person manning the entrance as may be necessary to ensure the shelter functions properly.
 - H. Enforcement: The on duty responsible person staffing the entrance shall notify the on call Committee member as necessary in the enforcement of shelter rules and expectations, and/or the Lacey Police Department as necessary to enforce local and state laws. Said responsible person shall also serve as a point of contact for the Lacey Police Department, and will orient the Department as to how the entrance operates. The names of the on duty responsible person(s) will be posted daily at the entrance. The City shall provide contact numbers of non emergency personnel which shall be posted at the entrance.

I. Visitors: Visitors to the shelter must meet the following procedures and requirements:

1. Visitors to the shelter must be invited by a resident and must be able to show picture ID.
2. Visitors must be accompanied by the resident that invited the visitor while at the shelter.
3. Visitors may be at the shelter only between the hours of 9:00 AM and 10:00 PM.
4. Visitors may not stay overnight unless they get permission from the host and complete the same background check requirements as required for residents.

J. Age Restrictions: Residents of the shelter and all visitors must be at least 18 years of age. No minors are permitted entrance to the shelter.

16.64.060 Access for Inspections. The Host Agency shall permit inspections by City staff and the Thurston County Health Department to ensure compliance with the conditions of this permit. Inspections shall occur at reasonable times, and may occur without prior notice.

16.64.070 Limitations.

- A. Shelter Duration: The use of a building as a homeless shelter shall not exceed ninety (90) days.
- B. Shelter Limitation: No Host Agency shall operate a homeless shelter more than one time in any 12 month period, beginning on the date the homeless shelter locates on a parcel of property.
- C. Number Limitation: No more than one (1) homeless shelter may be located in the City at any time.

16.64.080 Revocation. Upon determination that there has been a violation of any approval criteria or condition of application or that the Host Agency has failed to take action against a resident who violates the terms and conditions of the permit or has committed violence, the Director of Community Development may give written notice to the permit holder describing the alleged violation. Within 14 days of the mailing of notice of violation, the permit holder shall show cause why the permit should not be revoked. At the end of the 14 day period, the Director shall sustain or revoke the permit. When a Temporary Homeless Shelter permit is revoked, the Director shall notify the permit holder by certified mail of the revocation and the findings upon which the revocation is based. Appeals of decisions to revoke a Temporary Homeless Shelter permit shall be to Thurston County Superior Court.

16.64.090 Proof of Insurance. The Host Agency shall show proof of general liability insurance with minimum limits of \$1,000,000.00 per occurrence

Section 6: Emergency Shelters. The provisions of this Ordinance shall not apply to emergency or cold weather shelters where the screening of individuals to be temporarily housed in such shelters is conducted by the Emergency Shelter Network or a religious organization providing the emergency shelter.

Section 7: Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Ordinance, or its application to any person, is for any reason declared invalid in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.


Section 8: Longevity. This ordinance shall be in effect for a duration of one year after adoption and shall terminate thereafter. Prior to termination the Council may decide to review the effectiveness of this ordinance in providing an alternative temporary housing opportunity for the homeless population. The Council may utilize the tracking information provided

pursuant to LMC 16.64.020(E) in this review. Based upon the Council's review it may decide to continue this ordinance and re-adopt it or let it expire.


Section 9: The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 24th day of
APRIL, 2008.


CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:


City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO 1307

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on April 24, 2008, Ordinance No. 1307, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON RELATING TO TEMPORARY HOMELESS SHELTERS, ASSURING THE HEALTH, SAFETY AND WELFARE OF BOTH THE RESIDENTS OF SUCH SHELTERS AND THE CITIZENS OF THE CITY OF LACEY AND ADDING SECTIONS 16.06.372, 16.06.374, 16.06.671 AND A NEW CHAPTER, 16.64, ALL TO THE LACEY MUNICIPAL CODE AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance adds to the Lacey Municipal Code a new chapter and sections that enable qualifying religious institutions to temporarily host "Homeless Shelters" in their buildings, thereby furthering a religious institution's ability to minister to the homeless population.
2. The Ordinance 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: April 28, 2008.