

ORDINANCE NO. 1384

CITY OF LACEY

AN ORDINANCE RELATING TO THE PROCEDURES FOR LAND USE APPEALS, AMENDING SECTIONS 14.13.110, 14.16.016, AND 14.18.030 OF THE LACEY MUNICIPAL CODE, AMENDING CHAPTER 1 OF THE CITY'S DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS, AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, City staff identified a need for clarification and updating of the land use appeals procedures, and

WHEREAS, proposed changes to the Lacey Municipal Code and the City of Lacey's Development Guidelines and Public Works Standards were reviewed by City staff and the City of Lacey Planning Commission, and

WHEREAS, the proposed changes are intended to provide consistency and clarity in the administration of appeal procedures, and

WHEREAS, after a public meeting was held for comment, the Planning Commission recommended the proposed changes be forwarded to the City Council for approval,

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

Section 1. Section 14.13.110 of the Lacey Municipal Code is hereby amended to read as follows:

**14.13.110 Appeal.** Appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, shall be made to the hearings examiner pursuant to the Lacey Municipal Code Chapter 14.18.030.

Section 2. Section 14.16.016 of the Lacey Municipal Code is hereby amended to read as follows:

**14.16.016 Amendments, deletions, and additions.** The following sections of the International Property Maintenance Code as adopted in Section 14.16.010 are amended to read as follows:

101.1 Title

These regulations shall be known as the Property Maintenance Code of the City of Lacey, hereinafter referred to as "this code."

**102.3 Application of other codes.**

Repairs, additions or alterations to a structure, or changes of occupancy shall be done in accordance with the procedures and provisions of the International Existing Building Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of Lacey Zoning Code.

103.4 Section 103.4 is hereby deleted from the International Property Maintenance Code as adopted.

**103.5 Fees.**

The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the City of Lacey Fee Resolution adopted by the city council.

104.3.1. A new subsection 104.3.1 is hereby added to the International Property Maintenance Code adopted to read as follows:

104.3.1. Initial Inspection and Enforcement. An initial enforcement determination shall be undertaken against buildings or properties whenever the building official has reason to believe that a violation of this code exists; or a complaint is filed with the department by any person, provided that where complaints have been filed by tenants, the tenant first exhaust all remedies provided through the Washington State Landlord Tenant Act, unless circumstances exist that give evidence of an immediate life safety or health condition that warrants an immediate response by the department.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved and complies with all other codes adopted by the city of Lacey. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with all other codes adopted by the city of Lacey and the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the city of Lacey on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
  2. Sent by certified mail with return receipt requested, addressed to the last known address;
- or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

If the whereabouts of any of such persons is unknown and the same cannot be ascertained by the code official in the exercise of reasonable diligence, and the code official makes an affidavit to that effect, then the serving of such complaint or order upon such persons may be made either by personal service or by mailing a copy of the complaint and order by certified

mail, postage prepaid, return receipt requested, to each such person at the address of the building involved in the proceedings, and mailing a copy of the complaint and order by first class mail to any address of each such person in the records of the county assessor or the county auditor for the county where the property is located.

Such complaint shall contain a notice that a hearing will be held before the code official, at a place therein fixed, not less than ten days nor more than thirty days after the serving of said complaint; and that all parties in interest shall be given the right to file an answer to the complaint, to appear in person, or otherwise, and to give testimony at the time and place in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code official.

A copy of such complaint shall also be filed with the auditor of the county in which the dwelling, building, structure, or premise [premises] is located, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.

**108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and such costs will be recoverable pursuant to the Lacey Municipal Code Section 14.16.015.

**108.2.1 Standards for securing buildings.** To secure a building, all doors, window openings, or other openings on floors accessible from grade shall be closed and locked, or shuttered to prevent third party entry. If openings are damaged so they cannot be secured using normal building amenities, they shall be secured by covering with 7/16 inch minimum thickness structural panel cut to fit over the building opening and secured with #10 wood screws with fender washers. The screws shall penetrate the wood framing by a minimum of 1-1/4 inches and the screws shall be spaced around the perimeter of the opening at no more than 12 inches on center.

**109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs. Cost recovery shall be pursuant to the Lacey Municipal Code Section 14.016.015.

Section 111 of the International Building Code is deleted from the code adopted by the City of Lacey and a new Section 111 is hereby adopted to read as follows:

**Section 111 Means of Appeal:**

**111.1 Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the hearings examiner pursuant to the Lacey Municipal Code Chapter 14.18.030, ~~provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.~~ An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

~~— 111.2 Notice of meeting. The hearings examiner shall hold a hearing upon notice from the code official, within twenty days of the filing of an appeal, or at stated periodic meetings.~~

~~— 111.3 Open hearing. All hearings before the hearings examiner shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.~~

~~— 111.3.1 Procedure. The hearings examiner shall adopt and make available to the public through the code official procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.~~

302.4 Vegetation. All premises and exterior property shall be maintained pursuant to the Lacey Municipal Code Chapter 9.52.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

302.8 Vehicles. Except as provided for in other regulations, no inoperative or unlicensed vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth. This section applies to any vehicle as defined in the Revised Code of Washington Section 46.04.670.

**EXCEPTION:**

A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.10 A new subsection 302.10 is hereby added to the International Property Maintenance Code as adopted to read as follows: Recreational vehicles or other vehicles. No recreational vehicle as defined by the Lacey Municipal Code Chapter 16.06 or other vehicles shall be used for the purpose of living, sleeping, cooking or any similar use while parked on public or private property.

302.11 A new subsection 302.11 is hereby added to the International Property Maintenance Code as adopted to read as follows: Cargo containers and semi trailers.

302.11.1 Cargo containers, except as permitted by city of Lacey land use regulatory code, shall not be permitted to be used as storage buildings. Cargo containers which are permitted by the land use regulatory code to be used as storage buildings shall be provided with a foundation system that provides adequate clearance from the ground to prevent deterioration and shall be provided with an anchorage system to prevent sliding or overturning by wind or seismic forces prescribed by the building code.

302.11.2 Semi trailers shall not be used as storage buildings.

303. Section 303 is hereby deleted from the International Property Maintenance Code as adopted.

304.14. Subsection 304.14 is hereby deleted from the International Property Maintenance Code as adopted.

306.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing,

balcony, porch, deck, ramp or other walking surface which is more than thirty inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than thirty-four inches high or more than thirty-eight inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than thirty-six inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**EXCEPTION:**

Guards shall not be required where exempted by the adopted building code.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

**EXCEPTIONS:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

**EXCEPTIONS:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activity.

Section 3. Section 14.18.030 of the Lacey Municipal Code is hereby amended to read as follows:

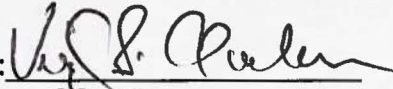
**14.18.030 Hearings examiner--Powers and duties.** All appeals authorized by those codes adopted by chapters of this title, preceding this chapter as to the suitability of alternate materials and methods of construction and from other rulings, interpretations or enforcement actions of those officials charged with enforcing said codes shall be to the city's hearings examiner pursuant to the provisions of Chapter 2.30 of this code and Section 1D "Appeals" of the Development Guidelines and Public Work Standards. The hearings examiner shall serve in lieu of all boards of appeals mentioned or described in the codes adopted by this title and said codes are hereby amended to the extent necessary to provide for such substitution.

Section 4. Chapter 1 of the development guidelines and public works standards is hereby amended as set forth in the attachment hereto.

Section 5. 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 23<sup>rd</sup> day of February,  
2012.

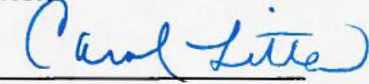
CITY COUNCIL

By:   
Mayor

Approved as to form:

  
1351 City Attorney

Attest:

  
City Clerk

**SUMMARY FOR PUBLICATION**

**ORDINANCE NO 1384**

**CITY OF LACEY**

**The City Council of the City of Lacey, Washington, passed on February 23, 2012, Ordinance No. 1384, entitled “AN ORDINANCE RELATING TO THE PROCEDURES FOR LAND USE APPEALS, AMENDING SECTIONS 14.13.110, 14.16.016, AND 14.18.030 OF THE LACEY MUNICIPAL CODE, AMENDING CHAPTER 1 OF THE CITY’S DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS, AND ADOPTING A SUMMARY FOR PUBLICATION.”**

**The main points of the Ordinance are described as follows:**

- 1. The Ordinance amends both the Lacey Municipal Code and chapter 1 of the City’s development guidelines and public works standards to provide consistency and clarity in the administration of appeal procedures.**
- 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: February 27, 2012.**