

ORDINANCE NO. 1387

CITY OF LACEY

AN ORDINANCE RELATING TO OCCUPATIONAL PERMITS FOR SOLICITORS, LOCKSMITHS AND FOR-HIRE VEHICLE OPERATORS, RECOGNIZING VALID PERMITS ISSUED BY THE CITIES OF OLYMPIA, TUMWATER AND YELM, ENACTING A NEW CHAPTER, 5.22, AND REPEALING CHAPTERS 5.20 AND 5.24 ALL OF THE LACEY MUNICIPAL CODE AND ADOPTING 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, 5.22,

to read as follows:

5.22.010 - Occupational Permit - Required

This ordinance is enacted to regulate the practice of certain occupations that, by their nature, present a heightened public safety risk to the public.

A. For-Hire Vehicle Driver/Operator – It is unlawful for any person to drive a for-hire vehicle and pick up any passenger within the City without first obtaining an occupational permit therefore in the manner provided by this chapter.

B. Locksmith – It is unlawful for any person, to act as a locksmith in the City without first obtaining an occupational permit pursuant to the provisions of this chapter.

C. Solicitor – It is unlawful for any person to act as a solicitor, within the meaning and application of this chapter, without first obtaining an occupational permit in the manner provided by this chapter.

5.22.020 - Definitions

For purposes of this chapter, the terms set forth below shall have the following meanings:

A. "Chief of Police" means the City of Lacey Chief of Police.

B. "City" means the City of Lacey.

C. "Department" or "Police Department" means the Lacey Police Department.

D. "Driver" or "Operator" means the person physically engaged in driving a for-hire vehicle, whether or not said person is the owner of or has any financial interest in said vehicle.

E. "For-hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except chartered and scheduled buses, vehicles not for hire by the general public

(such as vans operated by hotels, employers, churches, schools and retirement facilities) and ride share vehicles. The term refers primarily to taxicabs and limousines.

F. "Limousine" means a chauffeur-driven, unmetered, unmarked luxury motor vehicle pre-arranged for transportation meeting the definition in RCW 46.04.274. Limousines differ from "taxis" in that they are for the exclusive use of the person(s) paying the pre-arranged fare, are unmetered, unmarked, and are not available for spontaneous hire.

G. "Locksmith" means any person who, for hire, is engaged in the installation, removal, adjustment or repair of any locking or security device of any type used for doors, safes, windows or other similar purpose, and performs such service on a customer's premises.

H. "New application" means an application submitted by a person who did not possess a permit for the same occupation issued by the City in the immediate prior year.

I. "Person" means any natural person of either sex, firms, corporations, partnerships and associations either acting by themselves or by servant, agent or employee. The singular shall include the plural and the masculine pronoun shall include the feminine and neuter.

J. "Renewal application" means an application submitted by a person who possessed a permit for the same occupation issued by the City in the immediate prior year.

K. "Solicitor" within the meaning of this chapter, is any person who, either as a principal or agent, goes from door to door, or from place to place and enters upon any private property within the City and thereon engages in any of the following activities:

1. Sells, takes orders for, or offers to sell or take orders for, any goods, wares or merchandise whether or not collecting in advance for such goods, wares or merchandise; and/or
2. Sells, takes orders for, or offers to sell or take orders for services, whether or not collecting in advance for the performance of such services; and/or
3. Sell, takes orders for, or offers to sell or take orders for the making, manufacturing, or repairing of any article or thing whatsoever, whether or not collecting in advance for the performance of such services; and/or
4. Seeks contributions or donations.

L. "Taxicab," "Taxi" or "Cab" means a vehicle used for the transportation of passengers for-hire, where the route traveled, destination and number of passengers is controlled by the customer(s) and the fare is based on an amount recorded and indicated on a taximeter, or on a special fare rate or contracted agreement.

M. "Taximeter" means any instrument or device by which the charge for hire of a passenger carrying vehicle is measured or calculated either for the distance traveled by such vehicle or for

waiting time, or for both, and upon which such calculated charges are indicated by means of figures.

5.22.030 - General Requirements - Application Procedure

The following are the basic general requirements for all occupational permits required under this chapter. The individual permits may have additional requirements.

A. Applications for an occupational permit shall be made to the City Police Department on forms provided by the City. The applicant shall attest to the truthfulness of the application, and shall complete the application in full, as directed.

B. The required application information includes, but is not limited to, the following:

1. The full legal name of the person applying for the occupational permit;
2. Any other name(s) or alias(es) used by the applicant;
3. The applicant's current legal residence address (no post office box);
4. The applicant's current mailing address, if different from the legal residence address (post office box is acceptable)
5. The applicant's prior legal residences for the past five (5) years (no post office box);
6. The applicant's employment history for the past five (5) years;
7. The applicant's business information (the licensed business for which the applicant will be engaging in the permitted occupation);
8. The applicant's social security number;
9. The applicant's place and date of birth;
10. The applicant's physical description;
11. Signature of applicant.

C. Applicants must, at the time of application, submit the following documents and materials:

1. A completed and signed application form;
2. A copy of a valid driver's license or other government-issued photo identification.
3. If not a U.S. citizen, proof of authority to legally work in the U.S.
4. Payment in full of all permit fees.
5. For renewal applications, a copy of the occupational permit issued for the prior year.
6. Other application documents as required in this chapter.

D. By affixing his/her signature to the permit application form, each applicant shall swear, under penalty of perjury, that the information contained in the application is true, complete and correct to the best of the applicant's knowledge, and shall grant permission for the Police Department to use reasonable means to verify the information contained in the application.

5.22.040 - General Occupational Permit – Review of Applicants

A. The Chief of Police (or designee) shall cause all applications for permits to be reviewed. The purpose of this review shall be as follows:

1. To determine the genuineness of all credentials and documents presented by the applicant; and
2. To determine if the applicant meets the fitness requirements set forth in LMC 5.22.040(C) or (D) and, if applicable, the requirements set forth in 5.22.100.

B. The Police Department shall endeavor to complete its review within ten (10) working days after receipt of completed applications.

C. The presence of an outstanding warrant for the applicant, regardless of jurisdiction or severity of offense is cause for denial of an occupational permit under this section.

D. Prior conviction of a felony may be considered, along with other factors, in determining whether a occupational permit should be issued. However, conviction of a felony shall not be the sole reason for denying a permit unless such conviction was within the past 10 years and directly relates to the specific occupation, trade, vocation, or business for which the application is made.

E. Prior revocation of an occupational permit may be cause for denial of an occupational permit under this chapter.

5.22.050 - General Occupational Permit – Background Checks

A. All applicants for a permit under this chapter must consent to be fingerprinted for a criminal background check. Pursuant to Chapter 35.21.920 RCW, the Chief of Police (or designee) shall cause to have performed a state and nationwide background check of each applicant at the time of initial application and every third year thereafter, provided the applicant maintains his/her occupational permit continuously during that time.

B. The applicant shall be fingerprinted by the Police Department, which will forward the fingerprints to the Washington State Patrol (WSP) for processing. WSP will conduct a State background check and forward the fingerprints to the Federal Bureau of Investigation (FBI) for a nationwide background check.

C. The application fees for permits shall include the current charges for both State and national background checks and a charge for fingerprinting service. Background check and fingerprinting fees are non-refundable.

D. Upon receipt of the fingerprints and the appropriate fees from the Police Department, the WSP, pursuant to Chapter 35.21.920 RCW, will compare the applicant's fingerprints against its criminal database and submit the fingerprints to the FBI for a comparison with nationwide records. WSP will deliver the results of the State and national background checks to the Chief of Police (or designee) for use in determining the fitness of permit applicants, as specified in this chapter.

E. In those permit years in which State and nationwide background checks are not required, applicants shall certify as part of their renewal applications, under penalty of perjury, that they have no conditions or offenses which would disqualify or potentially disqualify them from holding a permit under this section.

F. The City reserves the right to cause to have conducted, at its own expense, at will, random spot checks of the backgrounds of permit holders at any time. Applicants are required to consent to such State and nationwide background checks, including the initial and any subsequent at will, random spot checks, as a condition of their application.

G. Applicants may request and receive a copy of the criminal history record information used by the City to determine fitness for a permit under this section, provided such request is made at the time of application. Criminal history record information that is used by the City to determine fitness for permits is not retained after the decision has been made to issue or deny a permit.

H. The City shall not be responsible for correcting errors or otherwise amending criminal history record data it obtains from the Washington State Patrol or the Federal Bureau of Investigation for the purpose of making permit fitness decisions. Applicants who seek to amend or correct a criminal history record must contact the Washington State Patrol for a Washington State record or the Federal Bureau of Investigation for records from other jurisdictions maintained in its file.

5.22.060 - General Issuance, Fee and Term of Occupational Permit

A. The City shall issue an occupational permit to the applicant on confirmation that all fitness requirements have been satisfied and the required fees paid.

B. Occupational permits issued under this chapter are valid for the calendar year of issue only and may be renewed in consecutive one-year increments.

C. Until such time as the City Council sets, by resolution, the fee for occupational permits under this chapter, the City Manager shall set the same. The fee shall be based on the cost of administering the permit process, the cost of obtaining criminal history and other background data, the cost of providing fingerprinting services and the consistency of such fee with similar fees established by the cities of Olympia, Tumwater, and Yelm.

D. If an applicant does not qualify for an occupational permit, the City shall promptly notify the applicant of the denial and refund the pre-paid permit fee except those portions relating to the background check and fingerprinting.

E. Occupational permit cards shall include a color photo provided by the applicant of the size specified by the City and a location for renewal stickers. New permit cards shall be issued to renewal applicants every three (3) years.

F. Occupational permits are non-transferable.

G. Fees are for the calendar year of issue and are not prorated.

H. Permit holders may renew permits for the following year any time after October 1st of each year.

I. All occupational permits issued or renewed under this chapter prior to October 1st expire at midnight on December 31st of the calendar year of issue. Permits issued or renewed after October 1st are valid from the date of issue through December 31st of the following calendar year.

J. Renewal is solely the responsibility of the holder of a permit. The City does not seek renewals or issue renewal reminders.

K. A new application is required if renewal of a current permit is not completed before its expiration.

L. A new application is required if an applicant's prior year permit was suspended or revoked.

5.22.070 - General Occupational Permit - Revocation, Suspension, or Denial

A. An occupational permit issued hereunder may be revoked, suspended or denied by the Chief of Police for any of the following reasons:

1. Failure to meet or maintain any of the requirements or qualifications set forth in this chapter for obtaining an occupational permit.
2. Falsification of any record, document, or information required to be kept or submitted to the City by this chapter.
3. Repeated or aggravated violations of LMC Section 5.22.110, 5.22.130, or 5.22.210.
4. Violation of LMC Section 5.22.120.

B. Prior to any revocation, suspension or denial of an occupational permit, the City shall inform the applicant of his right to a hearing thereon. Such hearing, if requested, shall be conducted before the City prior to the implementation of any revocation, suspension or denial.

5.22.080 – Reciprocity

The City of Lacey honors for-hire driver, locksmith and solicitor permits issued by the cities of Olympia, Tumwater, and Yelm as long as the ordinances of such cities regarding occupational permits are substantially the same as this chapter. A person holding a valid occupational permit from any one of such jurisdictions is authorized to conduct the permitted business within the City in exactly the same manner and subject to the same rules and regulations as a person holding a permit from the City itself.

5.22.090 - For-Hire Driver Occupational Permit - Additional Requirements

All applicants must meet the following further requirements:

- A. Have no physical or mental infirmity which jeopardizes the ability to operate a for-hire vehicle;
- B. Be at least twenty-one (21) years of age;
- C. Have a valid Washington driver's license that permits operation of a for-hire vehicle and be continuously licensed as a driver by the State of Washington and/or another state for at least the two (2) years immediately prior to the date of application for a occupational permit;
- D. Not have been convicted of operating a motor vehicle while under the influence of intoxicating liquor or drugs or of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, or of reckless driving or negligent driving, or of vehicular homicide or vehicular assault, within five (5) years preceding the date of application for a occupational permit;
- E. Not have been convicted of three or more moving violations during any twelve (12) month period during the five (5) years preceding the date of the application for an occupational permit.
- F. Not be a person who is required to register as a sex offender in any state.

5.22.100 - For-Hire Driver's Occupational Permit - Other Violations

In addition to the other provisions of this chapter, it is a violation for anyone holding a for-hire occupational permit to:

- A. Permit any person to alight from a for-hire vehicle while it is in motion;
- B. Operate or be in physical control of any vehicle while under the influence of intoxicating liquors or drugs;
- C. Allow passenger consumption of intoxicating liquor in any for-hire vehicle except a limousine or consumption of illegal drugs in any for-hire vehicle;
- D. Willfully carry any passenger to a destination by a route that is not the most direct route, unless a customer specifically authorizes a deviation or alternate route;
- E. Pick up additional passengers in a for-hire vehicle without the express consent of the original passenger;
- F. Activate a taximeter when a for-hire vehicle is not employed or activate any equipment which indicates that the for-hire vehicle is carrying a passenger when it is not.

5.22.110 - For-Hire Vehicle Rates to be Filed and Posted

Upon receipt of a vehicle for-hire license, the licensee shall immediately file with the - City a schedule of for-hire vehicle rates charged to the public. This schedule shall include rates for the following:

- A. Minimum charge;
- B. Rate per mile or fraction thereof above the minimum;
- C. Charges for each additional passenger above one;
- D. Charge for vehicle waiting time;
- E. Additional charge for baggage or suitcases;
- F. Any separate rate for service between the hours of midnight to six a.m.

The rate schedule shall be on file with the City for inspection by the public during normal city business hours. In addition, each for-hire permittee hereunder, except limousine operators, shall conspicuously display in the interior of the vehicle the rates of fare as required to be filed above. This posting must be located in the passenger compartment in a typewritten notice so as to be easily read by a passenger.

When the permittee changes rates, in total or in part, the permittee shall file a schedule of new rates with the City at least ten days before said new rates become effective. Likewise, the new rates shall be posted within the interior of the vehicle prior to the effective date of the new rates.

The permittee shall charge only those rates set forth in the schedule of rates required under this section.

5.22.120 - For-Hire Vehicle Passenger Complaints

Upon receipt of a passenger complaint, the City shall evaluate the same and, if deemed appropriate, send written notice to the licensee, either personally, or by mail with a certificate of mailing attached. The notice shall specify the vehicle license number, the nature of the complaint received and the date upon which the complaint was conveyed. If the complaint alleges a vehicle defect, the notice will require that the permittee or his agent present the vehicle for inspection to the Chief of Police (or designee) within five days of receipt of the notice or be subject to permit revocation proceedings under this chapter.

5.22.130 - Solicitor Occupational Permit - Additional Requirements

In addition to the information required in LMC 5.22.030, the following application information is required:

- A. The nature of the goods, wares, merchandise, repair, manufacturing or services to be offered by the solicitor, or the purpose for which contributions or donations will be sought.
- B. A description of any vehicle(s) used in the conduct of solicitation.

C. The applicant for such permit, if any scales, weights or measures are used in selling of goods, wares, merchandise or services, shall present and file with the application a certificate from the State Department of Weights and Measures showing that all scales, weights or measures to be used by the applicant in the licensed activity have been tested and found accurate and correct immediately prior to the filing of the application.

5.22.140 - Occupational Permit to be Carried

Such occupational permit shall be exhibited at all times in plain view by each solicitor for whom issued, when soliciting or canvassing in the City, and shall be provided for examination by any such solicitor wherever he or she shall be requested to do so by any police officer or any person solicited.

5.22.150 - Exemptions

A. The following persons are exempt from obtaining a solicitor's permit:

1. Persons engaged in solicitor activities who contact customers via appointments set in advance at the request of the customer;

2. Persons engaged in fund-raising for bona fide school, church, political or non-profit activities, where no compensation is provided to the persons doing the solicitation;

3. Youth under the age of 18 seeking lawn, child care or other occasional part-time work.

4. Persons and/or entities registered pursuant to Chapter 19.09 RCW as charitable organizations, independent fund raisers, or nonprofit fund raisers; provided, that such persons or entities, in order to qualify for this exemption, must have on file with the City Clerk a current copy of their state registration under Chapter 19.09 RCW, or be soliciting or canvassing for or on behalf of an organization that is so registered;

B. Nothing in this chapter shall prevent persons from soliciting alms, other contributions or donations or employment in public places, as permitted by law. (See LMC 5.21)

5.22.160 - Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall

be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

Section 2. Chapters 5.20 and 5.24 of the Lacey Municipal Code are hereby repealed.

Section 3. 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 8th day of March, 2012.

CITY COUNCIL

By: 
Mayor

Approved as to form:


City Attorney

Attest:

 
City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1387

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on March 8, 2012, Ordinance No. 1387, entitled "AN ORDINANCE RELATING TO OCCUPATIONAL PERMITS FOR SOLICITORS, LOCKSMITHS AND FOR-HIRE VEHICLE OPERATORS, RECOGNIZING VALID PERMITS ISSUED BY THE CITIES OF OLYMPIA, TUMWATER AND YELM, ENACTING A NEW CHAPTER, 5.22, AND REPEALING CHAPTERS 5.20 AND 5.24 ALL OF THE LACEY MUNICIPAL CODE AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance adopts new regulations relating to occupational permits for solicitors, locksmiths and for-hire vehicle operators which are consistent with proposed ordinances in the cities of Olympia, Tumwater, and Yelm.
2. The Ordinance provides that the City will recognize valid permits for these occupations issued by the other two cities thereby eliminating the need for applicants to file in each of the cities.
3. Prior regulations of the City for solicitors and for-hire vehicles contained in Chapters 5.20 and 5.24 of the Lacey Municipal Code are repealed.
4. This Summary is approved 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: March 12, 2012.