

ORDINANCE NO. 152

AN ORDINANCE REGULATING THE HAULING OF MATERIALS ON AND OVER CITY STREETS AND RIGHTS-OF-WAY; REGULATING THE DEPOSITING, STORING AND ACCUMULATING OF MATERIALS ON STREET RIGHTS-OF-WAY WHETHER OR NOT DEVOTED TO ROADWAY USE; REQUIRING CLEAN-UP AND RESTORATION OF CITY STREETS AND RIGHT-OF-WAY, WHERE ACCUMULATION OF RESIDUE AND/OR DAMAGE TO STREETS AND RIGHT-OF-WAY RESULT FROM PRIVATE CONSTRUCTION, LANDSCAPING, OR EXCAVATION; AND DECLARING AN EMERGENCY.

THE CITY COUNCIL OF THE CITY OF LACEY DOES ORDAIN AS FOLLOWS:

Section 1. The following definitions are provided for the sole purpose of proper interpretation and administration of this ordinance;

(1) "City Engineer," shall mean the City Engineer or his duly authorized representative.

(2) "Person," shall mean any person, firm, association, or corporation.

(3) "Public Property," shall mean all streets, thoroughfares, alleys, sidewalks, curbs, roads, parking strips, highways, avenues, parkways, bridges, viaducts, public roads, public improvements and other public places within the corporate limits of the City and/or within the jurisdiction of the City when exercising its lawful police power.

(4) "Roadway," shall mean a paved, improved or proper driving portion of a public right-of-way designed or ordinarily used for vehicular travel.

Section 2. Any person hauling any loose material over the streets of the City of Lacey shall do so in a tight box or container (to include beds of trucks) properly covered so that such material shall not sift from, bounce, escape or be blown out of the carrying vehicle or permitted to fall upon public property as defined herein; and whenever loading or unloading of any loose material, including lumber or wood, the same shall fall upon the public property it shall be promptly and completely removed from such public property to the satisfaction of the City Engineer.

Section 3. If any person in violation of this ordinance permits loose material to fall on or accumulate on public property, he shall immediately abate such condition or shall be deemed to have created a public nuisance. Such a nuisance shall be abated with or without legal action and such other proceedings shall be taken with respect thereto or authorized by law and the ordinances of the City for the prevention, abatement and punishment of nuisances; and it shall

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2nd Reading - 9/10/70

be no defense to any prosecution or proceeding under this section that the person violating the same has a franchise to use or occupy such public property. Failure to abate such nuisance which results in action being taken by the City of Lacey for such abatement shall result in the violator being liable for all expenses incurred by the City in its abatement action.

Section 4. Any person who while engaged in development, landscaping, clearing, excavating or any other action adjunct thereto, who as a result of such action causes any overburden, dirt, lumber or other debris attributable to his action to fall or accumulate on public property as herein defined, shall remove in its entirety all such accumulation from public property. Such removal shall be done to the satisfaction of the City Engineer; failure to move the accumulation within the time period prescribed by the City Engineer, which results in necessity for the City to undertake such removal in the public interest, shall cause the violator to be liable for all costs to the City incurred in connection with abatement of such nuisance.

Section 5. Any person, who in the course of actions described in Section 1 of this ordinance, causes damage to any public property, including roadways and rights-of-way not exercised, shall restore such public property to a condition at least equal to the condition immediately prior to the person's action that resulted in the damage to the public property. Such restoration will be to the satisfaction of the City Engineer, within a time frame stipulated by the City Engineer, and further conditioned that the person causing or responsible for such damage will maintain such public property for a period of one (1) year; failure to effect such restoration within the time frame presented by the City Engineer, or to maintain such restoration for a period of one (1) year from the date of restoration which results in the necessity for the City to undertake such restoration and/or maintenance in the public interest shall cause the violator to be deemed to have created a public nuisance and shall cause the violator to be liable for all costs incurred by the City incident to the abatement of the public nuisance. Such a nuisance shall be abated with or without legal action and such other proceedings shall be taken with respect thereto as are

authorized by law and the ordinances of the City for the prevention, abatement, and punishment of nuisances; and it shall be no defense to any prosecution or proceeding under this section that the person violating the same has a franchise to use or occupy such public property. Failure to abate such nuisance which results in action being taken by the City of Lacey for such abatement shall result in the violator being liable for all expenses incurred by the City in its abatement action.

Section 6. Any person who shall fail to comply with or violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the City Jail not exceeding Ninety (90) days, or by both such fine and imprisonment.

Section 7. If any section, sub-section, paragraph, sentence, clause or phrase of this ordinance is declared invalid for any reason, such invalidity shall not effect the validity of the remaining portions of this ordinance.

Section 8. This ordinance is necessary for the immediate preservation of the health, welfare and safety of the Citizens of Lacey and shall go into effect immediately upon its passage, approval and publication in the manner prescribed by law.

PASSED by the Council and signed by the Mayor this 10th day of September, 1970.

A. S. Homann
MAYOR

ATTEST:

[Signature]
CITY CLERK

APPROVED AS TO FORM

[Signature]
CITY ATTORNEY