

ORDINANCE NO. 359

CITY OF LACEY

AN ORDINANCE RELATING TO INTOXICATED PERSONS AND PERSONS INCAPACITATED BY ALCOHOL; PROVIDING FOR THE TAKING OF SUCH PERSONS TO APPROVED TREATMENT FACILITIES AND PROCEDURES IN CONNECTION THEREWITH AND AMENDING SECTION 9.16.010 OF THE LACEY MUNICIPAL CODE TO REMOVE THE CRIMINAL PENALTIES FOR THE CONDITION OF PUBLIC INTOXICATION.

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

WHEREAS, Chapter 70.96A RCW, the Uniform Alcoholism and Intoxification Act, decriminalizes public intoxication and provides for medical treatment of persons found intoxicated or incapacitated by alcohol in public, but such act will not go into effect until January 1, 1975; and

WHEREAS, the City Council of the City of Lacey has received a report from the Thurston-Mason County Health and Social Services Administrative Board recommending that the City of Lacey implement by ordinance, insofar as possible, provisions similar to such state law immediately;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LACEY DOES ORDAIN AS FOLLOWS:

Section 1. For purposes of this ordinance, the definitions set forth in RCW 70.96A.020 are adopted by reference thereto and are incorporated herein as though fully set forth and made a part hereof. Additionally, until Chapter 70.96A RCW is effective on January 1, 1975, the definition of "approved treatment facility" shall be held to include: "A Receiving Center established by the Thurston-Mason Alcoholism Recovery Council, Inc., which Center is

required to meet all state standards for such facilities and operation pursuant to Chapter 70.96A RCW." Beginning January 1, 1975, the definition of "approved treatment facility" shall continue to include a Receiving Center as set forth above, unless and until the Department of Social and Health Services designates otherwise.

Section 2. Except for a person who may be apprehended for possible violation of laws not relating to alcoholism or intoxication and except for a person who may be apprehended for possible violation of laws relating to driving or being in physical control of a vehicle while intoxicated and except for a person who may wish to avail himself of the provisions of RCW 46.20.308,

(a) A person who appears to be intoxicated in a public place and to be in need of help, if he consents to the proffered help, may be assisted to his home, an approved treatment facility or other health facility

(b) A person who appears to be incapacitated by alcohol and who is in a public place or who has threatened, attempted, or inflicted physical harm on another, shall be taken into protective custody by the police or the emergency service patrol, if any, and [redacted] brought to an approved treatment facility for treatment. A taking into protective custody under this ordinance is not an arrest. No entry or other record shall be made to indicate that the person has been

arrested or charged with a crime.

Section 3. A person who comes voluntarily or is brought to an approved treatment facility shall be examined by a qualified person under the supervision of a licensed physician as soon as possible. He may then be admitted as a patient or referred to another health facility. The referring approved treatment facility shall arrange for his transportation.

Section 4. A person who by medical examination is found to be incapacitated by alcohol at the time of his admission or to have become incapacitated at any time after his admission, may not be detained at the facility (a) once he is no longer incapacitated by alcohol, and (b) if he remains incapacitated by alcohol for more than forty-eight hours after admission as a patient, unless he is committed pursuant to RCW 70.96A.140 or RCW 70.96A.130. A person may consent to remain in the facility as long as the physician in charge believes appropriate.

Section 5. A person who is not admitted to an approved treatment facility and is not referred to another health facility may be taken to his home, if any. If he has no home, the approved treatment facility shall assist him in obtaining shelter.

Section 6. If a person is admitted to an approved treatment facility, his family or next of kin shall be notified as promptly as possible. If an adult patient who is not

incapacitated requests that there be no notification, his request shall be respected.

Section 7. If the person in charge of the approved treatment facility determines it is for the patient's benefit, the patient shall be encouraged to agree to further diagnosis and appropriate voluntary treatment.

Section 8. Persons receiving treatment at an approved treatment facility may be charged a daily fee for their treatment subject to any guidelines established by the Department of Social and Health Services.

Section 9. Section 9.16.010 of the Lacey Municipal Code is hereby amended to read as follows:

9.16.010 ~~Intoxiation--Disorderly conduct--~~
Indecent exposure--Unlawful. It is unlawful for any person ~~to-be-found-in-a-state-of-intoxiation-in-or-upon-any-private house;-building;-or-premises-not-occupied-by-such-person-as a-home;-to-be-intoxicated-to-the-annoyance-of-any-other-person; or-to-be-found-in-an-intoxiated-condition-in-or-upon-any street;-alley;-or-public-place;-or-place-open-to-the-public view;-or-while-being-drunk;-be-incapable-of-taking-care-of him-or-herself;-or~~ within this city to act in a noisy, riotous or disorderly manner, or fight, or indecently expose his or her person, or appear in an indecent or vulgar manner in any public or open place.

PASSED BY THE CITY COUNCIL THIS 7th DAY
OF November, 1974.

W. H. Buse
MAYOR

ATTEST Timothy McGuire
CITY CLERK

APPROVED AS TO FORM:
Kurt J. [Signature]
CITY ATTORNEY

PASSED: 11-7-74

PUBLISHED: 11-13-74

AND SAFETY

PUBLIC HEALTH AND SAFETY 70.96A.020

ounty so long as it contributes no taxes and profits to the support 2 ch 77 § 1.]

CHAPTER 70.96A—UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT

(Effective January 1, 1975)

als ↪2.
lity for liquor taxes and prof- n program required

of liquor taxes and profits, each no less than two percent of such ort of an alcoholism program ap- rd authorized by RCW 70.96.160 social and health services. [Add- ended by Laws 1st Ex Sess 1973

66.08.180.

↪123.

6, effective January 1, 1975.

strative board—Members— wners, duties—Executive di-

ting jointly by agreement, here- e an alcoholism administrative : less than seven nor more than of the community, shall include Include consumer and minority cted or appointed city or county ge time. Members of the board r successors are appointed and or the performance of their du- id subsistence rates and mileage as now or hereafter amended. county and the department of of alcoholism prevention, treat- planning and funding thereof, s, liabilities and authorities as spect to the mental health ad- ment of social and health serv-

e appointed by the county com- ard. Applicants for such posi- or state, and may be employed st Ex Sess 1973 ch 155 § 2.]

effective January 1, 1975.

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- Sections
- 70.96A.150 Records of alcoholics and in- toxicated persons.
- 70.96A.160 Visitation and communica- tion with patients.
- 70.96A.170 Emergency service patrol— Establishment—Rules.
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- 70.96A.190 Criminal laws limitations.
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- 70.96A.220 Duties of director of pro- gram planning and fiscal management regarding transfer of equipments, funds and appropriations.
- 70.96A.900 Short title.
- 70.96A.910 Application and construc- tion.
- 70.96A.920 Severability.
- 70.96A.930 Section, subsection headings not part of law.

70.96A.010 Declaration of policy

It is the policy of this state that alcoholics and intoxicated persons may not be subjected to criminal prosecution solely because of their consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that they may lead normal lives as productive members of society. [Added by Laws 1st Ex Sess 1972 ch 122 § 1, effective January 1, 1975.]

Effective date—1972 1st ex.s. c 122. "Chapter 122, Laws of 1972 extraordinary session shall be effective January 1, 1975." [1973 c 92 § 1; 1972 1st ex.s. c 122 § 31.] This applies to chapter 70.96A RCW, to the amendment of RCW 9.87.010 and 71.24.- 030, and to the repeal of RCW 9.68.040, 70.96.010-70.96.030, 70.96.040-70.96.080, 70.96.- 090, 70.96.100-70.96.140, 70.96.900, and 71.08.010-71.08.090.

Progress report: "The department of social and health services shall make and deliver a written progress report on the implementation of the uniform alcoholism and intoxication treatment act every ninety days up to the effective date of the act, January 1, 1975 to the appropriate committee of the legislative council, or its successor." [1973 c 92 § 2.]

Am Jur 2d Incompetent Persons §§ 35, 60, Intoxicating Liquors § 60.
CJS Drunkards § 7.
Key Number Digests: Drunkards ↪4.

70.96A.020 Definitions

For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

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(1) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted;

(2) "Approved treatment facility" means a treatment agency operating under the direction and control of the department of social and health services or providing treatment under this act through a contract with the department under RCW 70.96A.080(6) and meeting the standards prescribed in RCW 70.96A.090(1) and approved under RCW 70.96A.090(3);

(3) "Secretary" means the secretary of the department of social and health services;

(4) "Department" means the department of social and health services;

(5) "Director" means the director of the division of alcoholism;

(6) "Emergency service patrol" means a patrol established under RCW 70.96A.170;

(7) "Incapacitated by alcohol" means that a person, as a result of the use of alcohol, has his judgment so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment and constitutes a danger to himself, to any other person, or to property;

(8) "Incompetent person" means a person who has been adjudged incompetent by the superior court;

(9) "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(10) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient and emergency services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling, which may be extended to alcoholics, persons incapacitated by alcohol, and intoxicated persons. [Added by Laws 1st Ex Sess 1972 ch 122 § 2, effective January 1, 1973.]

Reviser's note: Throughout this chapter "this act" has been translated to "this chapter". This act [1972 1st ex.s. c 122] consists of chapter 70.96A RCW, the amendment of RCW 9.87.010, 71.24.030, and the repeal of RCW 9.68.040, 70.96.010-70.96.030, 70.96.040-70.96.080, 70.96.090, 70.96.100-70.96.140, 70.96.900, and 71.08.010-71.08.090.

41 Am Jur 2d Incompetent Persons §§ 7, 35, 60.

A treatment center for alcoholics involves activities such as might be expected in a hospital, sanitarium, or rest home. State ex rel. Lyon v Snohomish County Board of Adjustment (1973) 9 Wn App 446, 512 P2d 1114.

70.96A.030 Alcoholism program

A discrete program of alcoholism is established within the department of social and health services, to be administered by a qualified person who has training and experience in handling alcoholism problems or the organization or administration of treatment services for persons suffering from alcoholism problems. [Added by Laws 1st Ex Sess 1972 ch 122 § 3, effective January 1, 1975.]

41 Am Jur 2d Incompetent Persons §§ 35, 60.

CJS Drunkards § 7.

Key Number Digests: Drunkards ⇐4.

70.96A.040 Program authority

The department, in the operation of the alcoholism program may:

(1) Plan, establish, and maintain treatment programs as necessary or desirable;

(2) Make contracts necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, organizations, and individuals to pay them for services rendered or

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furnished to alcoholics, persons incapacitated by alcohol, and intoxicated persons;

(3) Solicit and accept for use any grant of money from the federal government, the state, or any political subdivision, or any other source, and do all things necessary or appropriate for any of its agencies in making and carrying out such grant;

(4) Administer or supervise the treatment of alcoholics and intoxicated persons and persons incapacitated by alcohol, and persons suffering from alcoholism, pursuant to federal health, state, or local laws;

(5) Coordinate its activities and those of other agencies in this and other states, and make arrangements with state, local, or federal agencies for the treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons and for the common good;

(6) Keep records and engage in statistical work;

(7) Do other acts and things necessary or appropriate expressly granted to it; and

(8) Acquire, hold, or dispose of real property, including land, to construct, lease, or otherwise provide for the treatment of persons incapacitated by alcohol, and intoxicated persons. Ex Sess 1972 ch 122 § 4, effective January 1, 1973.

41 Am Jur 2d Incompetent Persons § 7.
CJS Drunkards § 7.

Key Number Digests: Drunkards ⇐4.

70.96A.050 Duties of department

The department shall:

(1) Develop, encourage, and foster programs for the prevention of alcoholism and persons incapacitated by alcohol, and intoxicated persons, with public and private agencies, organizations, and individuals, and technical assistance and consultation;

(2) Coordinate the efforts and activities of public and private agencies, organizations, and individuals in the prevention and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons;

(3) Cooperate with public and private agencies in conducting programs to provide treatment for alcoholics, persons incapacitated by alcohol, and intoxicated persons;

(4) Cooperate with the superior court in the prevention of alcoholism and treatment of alcoholics, persons incapacitated by alcohol, and intoxicated persons, and in the use of funds thereon for use at all levels of government;

(5) Prepare, publish, evaluate, and disseminate information relating to the nature and effects of alcoholism;

(6) Develop and implement, as a part of its program, an educational program for use with persons incapacitated by alcohol, and intoxicated persons, and the dissemination of information;

(7) Organize and foster training and education of alcoholics, persons incapacitated by alcohol, and intoxicated persons.