

ORDINANCE 718

CITY OF LACEY

AN ORDINANCE READOPTING THE PROVISIONS OF ORDINANCE 499 OF THE CITY OF LACEY, REPEALING CHAPTERS 9.04 THROUGH 9.40 OF THE LACEY MUNICIPAL CODE, ADDING NEW CHAPTERS AND SECTIONS THEREOF TO TITLE 9 OF THE LACEY MUNICIPAL CODE RELATING TO PUBLIC PEACE, SAFETY AND MORALS, AMENDING SECTION 1.12.010 OF SAID CODE AND DECLARING AN EMERGENCY

WHEREAS, the City Council duly considered and passed on August 10, 1978, Ordinance No. 499 in order to replace those provisions of Chapters 9.04 through 9.40 of the Lacey Municipal Code which existed on said date with a new criminal code for the City of Lacey, and

WHEREAS, it was the intent of the City Council in the passage of Ordinance No. 499 to repeal the prior provisions of Chapters 9.04 through 9.40 of the Lacey Municipal Code only upon their being duly replaced with those provisions contained in Section 2 of Ordinance No. 499 and not otherwise, and

WHEREAS, Ordinance No. 499, after its passage on August 10, 1978, was duly published in the City's official newspaper, which is published within the City on August 16, 1978, and

WHEREAS, it has been asserted that said ordinance should have been posted in three public places in the City rather than published in the City's official newspaper, and if said assertion is upheld, the validity of Ordinance No 499 may be in jeopardy and the Council takes this action in readopting the substantive provisions of Ordinance No. 499 solely for the purpose of protecting the city and

its citizens against such a contingency; now, therefore

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

Section 1. That the following chapters of the Lacey Municipal Code and sections contained therein and ordinances corresponding thereto are hereby repealed:

<u>Chapter</u>	<u>Section</u>	<u>Ordinances</u>
9.04	9.04.010	29§1
	9.04.020	66§1
	9.04.030	195§20 (part)
9.08	9.08.010	29§23
	9.08.020	29§24
	9.08.030	29§25
	9.08.040	29§26
9.12	9.12.010	29§5
	9.12.020	29§6
9.16	9.16.010	359§9; 29§2
	9.16.020	198§5
	9.16.030	29§12
	9.16.040	29§13
	9.16.050	71§1
9.20	9.20.010	28§1
	9.20.020	29§35
	9.20.030	369§4; 38§§1-3, 8, 9
	9.20.040	38§4
	9.20.050	38§5
	9.20.060	38§6
	9.20.070	38§7
	9.20.080	369§4; 197§10; 38§10
	9.20.090	337 (part)
	9.20.100	337 (part)
	9.20.110	337 (part)

<u>Chapter</u>	<u>Section</u>	<u>Ordinances</u>
9.24	9.24.010	29§7
	9.24.020	198§3;
		29§8
	9.24.030	198§4;
		29§9
	9.24.040	29§14
	9.24.050	29§31
	9.24.060	195§24;
		184§1
		9.24.070
9.28	9.28.010	29§19
	9.28.020	29§20
	9.28.030	29§21
	9.28.040	29§22
	9.28.050	29§27
	9.28.060	29§28
	9.28.070	29§29
	9.28.080	29§30
	9.28.090	31§1
	9.28.100	31§2
9.32	9.28.110	76§1
	9.28.120	33§1
	9.32.010	198§1;
		29§3
	9.32.020	198§2;
		29§4
	9.32.030	16§1
	9.32.040	63§1;
		16§2
	9.36	9.36.010
9.40	9.40.010	34§§1, 3
	9.40.020	36§1
	9.40.030	327 (part);
		297§1;
		36§2
	9.40.040	42§1
	9.40.050	195§21;
		42§2
	9.40.060	195§22;
		42§3
9.40.070	195§23;	
	61§1	
9.40.080	61§2	
9.40.090	61§3	
9.40.100	65§§1, 2	

Section 2. That the following chapters and sections be added to Title 9 of the Lacey Municipal Code:

"Chapter 9.04 - General Provisions

"Section 9.04.010 - Definitions. In this title, unless a different meaning plainly is required:

"(1) 'Building,' in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

"(2) 'Officer,' means a person holding office under any level of government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, including peace officers, and including assistants and employees of any public officer;

"(3) 'Peace Officer,' means a duly appointed city, county or state law enforcement officer;

"(4) 'Person,' 'he' and 'actor' include any natural person of either sex and, where relevant, a corporation, joint stock association or an unincorporated association;

"(5) 'Property,' means anything of value, whether tangible or intangible, real or personal, privately or publicly owned;

"(6) 'Public Servant,' means any person other than a witness who presently occupies the position of or has been elected, appointed or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror and any person participating as an advisor, consultant or otherwise performing a governmental function;

"(7) 'Vehicle,' means a motor vehicle as defined in the vehicle and traffic laws of the state, any aircraft or any vessel equipped for propulsion by mechanical means or by sail;

"(8) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular.

"Section 9.04.020 - Culpability Definitions.

"(1) The following definitions shall govern the requirements of culpability applicable to this title:

"(a) 'Intent.' A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes an offense.

"(b) 'Knowledge.' A person knows or acts knowingly or with knowledge when he:

"(i) is aware of a fact, facts or circumstances or result described by an ordinance defining an offense; or

"(ii) has information which would lead a reasonable man in the same situation to believe that facts exist, which facts are described by an ordinance defining an offense.

"(c) 'Recklessness.' A person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his disregard of such substantial risk is a gross deviation from conduct that a reasonable man would exercise in the same situation.

"(2) When recklessness is an element of an offense, such element also is established if a person acts intentionally or

knowingly. When knowledge is an element; such element also is established if a person acts intentionally.

"(3) A requirement that an offense be committed willfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears.

"Section 9.04.030 - Liability for Conduct of Another.

"(1) A person is guilty of violating an ordinance if such violation is committed by the conduct of another person for which he is legally accountable.

"(2) A person is legally accountable for the conduct of another person when:

"(a) Acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct; or

"(b) He is made accountable for the conduct of such other person by this title or by the law defining the offense; or

"(c) He is an accomplice of such other person in the commission of the offense.

"(3) A person is an accomplice of another person in the commission of an offense if:

"(a) He solicits, commands, encourages or requests such other person to commit it, or aids or agrees to aid such other person in planning or committing it, with knowledge that it will promote or facilitate the commission of the offense; or

"(b) His conduct is expressly declared by law to establish his complicity.

"(4) Unless otherwise provided by this title or by the law defining the offense, a person is not an accomplice in an offense committed by another person if he is a victim of the offense or if he terminates his complicity prior to the commission of the offense and gives timely warning to law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the offense.

"(5) A person legally accountable for the conduct of another person may be convicted on proof of the commission of the offense and of his complicity therein, though the person claimed to have committed the offense has not been prosecuted or convicted or has been convicted of a different offense or has an immunity to prosecution or conviction or has been acquitted.

"Section 9.04.040 - Classification of Offenses and Penalties.

"(1) For the purposes of this title, offenses are designated as gross misdemeanors and misdemeanors. Any offense not so designated is a misdemeanor.

"(2) A person convicted of a gross misdemeanor under this title shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment.

"(3) A person convicted of a misdemeanor under this title shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

"Section 9.04.050 - Restitution. If a person has gained money or property or caused a victim to lose money or property

through the commission of an offense, upon conviction thereof the court, in lieu of or in addition to imposing a fine, may order the defendant to pay an amount not to exceed double the amount of the defendant's gain or the victim's loss from such commission. Such amount may be used to provide restitution to the victim at the order of the court.

"Chapter 9.08 - Anticipatory Offenses.

"Section 9.08.010 - Criminal Attempt.

"(1) A person is guilty of an attempt to commit an offense if, with intent to commit a specific offense, under this title, he does any act which is a substantial step toward the commission of that offense.

"(2) It is no defense to a prosecution for an attempt that the offense charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

"(3) An attempt to commit an offense is a misdemeanor.

"Section 9.08.020 - Criminal Solicitation.

"(1) A person is guilty of criminal solicitation when, with intent to promote or facilitate a violation of this chapter, he offers to give or gives money or other thing of value to another to engage in specific conduct which would constitute such offense or which would establish complicity of such other person in its commission or attempted commission had such offense been attempted or committed.

"(2) Criminal solicitation is a misdemeanor.

"Section 9.08.030 - Criminal Conspiracy.

"(1) A person is guilty of a criminal conspiracy when, with intent that conduct constituting a violation of this title be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

"(2) It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired has not been prosecuted or convicted, has been convicted of a different offense, is not amenable to justice, has been acquitted or lacked the capacity to commit an offense.

"(3) Criminal conspiracy is a misdemeanor.

"Chapter 9.12 - Crimes Against the Person.

"Section 9.12.010 - Simple Assault.

"(1) A person is guilty of simple assault if he commits an assault or an assault and battery upon the person of another.

"(2) Simple assault is a gross misdemeanor.

"Section 9.12.020 - Reckless Endangerment.

"(1) A person is guilty of reckless endangerment if he recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person.

"(2) Reckless endangerment is a gross misdemeanor.

"Section 9.12.030 - Coercion.

"(1) A person is guilty of coercion if by use of a threat he compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

"(2) As used in this section, 'threat' means a communication, direct or indirect, of the intent to:

"(a) Immediately use force against any person who is present at the time; or

"(b) Cause bodily injury in the future to the person threatened or to any other person; or

"(c) Cause physical damage to the property of a person other than the actor; or

"(d) Subject the person threatened or any other person to physical confinement or restraint.

"(3) Coercion is a gross misdemeanor.

"Section 9.12.040 - Custodial Interference.

"(1) A person is guilty of custodial interference if, knowing that he has no legal right to do so, he takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution.

"(2) Custodial interference is a gross misdemeanor.

"Chapter 9.16 - Crimes Against Morality and Decency.

"Section 9.16.010 - Indecent Exposure.

"(1) A person is guilty of indecent exposure if he makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

"(2) Indecent exposure is a misdemeanor unless such person exposes himself to a person under the age of fourteen (14) years, in which case it is a gross misdemeanor.

"Section 9.16.020 - Distributing Obscene Materials.

"(1) A person is guilty of distributing obscene materials if, with knowledge of the contents thereof, he sells, distributes, exhibits, displays for sale or distribution, or possesses with intent to sell or distribute any obscene material.

"(2) As used in this section, 'obscene material' means any book, magazine, pamphlet, comic book, newspaper, writing, photograph, motion picture, film, phonograph record, tape or wire recording, picture, drawing, figure, image, design or other object which depicts:

"(a) Human sexual intercourse; or

"(b) Masturbation; or

"(c) Bestiality, oral or anal intercourse, or other forms of sodomy; or

"(d) Direct physical stimulation of unclothed genitals; or

"(e) Flagellation or torture in the context of sexual relationships; or

"(f) Other patently offensive sexual activity.

Provided, however, that this definition shall only include materials which, taken as a whole, lack serious literary, artistic, political or scientific value and appeal to the prurient interest of average persons in the community.

"(3) Distributing obscene materials is a gross misdemeanor.

"Section 9.16.030 - Prostitution.

"(1) A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

"(2) In any prosecution for prostitution, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that such persons were of the same sex or that the person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was female.

"(3) Prostitution is a misdemeanor.

"Section 9.16.040 - Permitting Prostitution.

"(1) A person is guilty of permitting prostitution if, having possession or control of premises which he knows are being used for prostitution purposes, he fails without lawful excuse to make reasonable effort to halt or abate such use.

"(2) Permitting prostitution is a misdemeanor.

"Chapter 9.20 - Crimes Against Public Safety.

"Section 9.20.010 - Abandoned Iceboxes. A person is guilty of a misdemeanor if he discards, abandons or leaves in any place accessible to children, any refrigerator, icebox, deep-freeze locker or other like container having a capacity of one and one-half cubic feet or more, unless all doors thereon may be readily opened from the inside thereof or have been removed therefrom and unless all locks or locking devices have been removed therefrom.

"Section 9.20.020 - Fireworks - Definitions.

"The following definitions shall apply in Sections 9.20.030 and 9.20.040:

"(1) 'Dangerous fireworks' shall have the same definition as given by RCW 70.77.130.

"(2) 'Fireworks' shall have the same definition as given by RCW 70.77.125.

"(3) 'Retail Dealer' means a person, firm or corporation whose business is the selling of goods by single articles or in small quantities to the consumer.

"(4) 'Safe and sane fireworks' shall have the same definition as given by RCW 70.77.135.

"(5) 'Wholesale dealer' means a person, firm or corporation whose business is the selling of goods in gross to jobbers or retail dealers and not to the ultimate consumer of an individual unit.

"Section 9.20.030 - Fireworks Sales.

"(1) A person is guilty of a misdemeanor if he sells fireworks in the city at any time except as herein provided.

"(2) Safe and sane fireworks may be sold in the city only from twelve noon on the twenty-eighth day of June to twelve noon on the sixth day of July of each year, and the type of safe and sane fireworks sold shall be governed by RCW 70.77.400.

"(3) The sale of any other fireworks shall be governed by RCW Chapter 70.77.

"(4) Toy pistols, toy canes, toy guns or other similar devices in which paper caps containing not more than twenty-five one hundredths grain of explosive compound for each cap may be sold at all times.

"Section 9.20.040 - Fireworks Permits.

"(1) Any person, firm or corporation selling fireworks within the city, either as a wholesale dealer or as a retail dealer,

shall be required as a condition of such operation to secure from the city clerk a permit for such sale of fireworks. The fee for such permit shall be ten dollars for the selling of fireworks as a wholesale dealer and shall be five dollars for the selling of fireworks as a retail dealer and such permit shall be effective for the full calendar year in which the permit is secured. The city clerk is directed to issue such permits upon application and payment of the permit fee.

"(2) A person who sells fireworks without a permit is guilty of a misdemeanor.

"Section 9.20.050 - Barbed Wire and Electric Fences.

"(1) No person or firm being the owner of or agent for or in possession and control of any property within the city limits which is located in zone districts R-1, R-2, R-3, C-1, C-2, C-3 or P-R shall construct, maintain or allow to exist any barbed wire or electric fence except as herein provided.

"(2) No person or firm being the owner of or agent for or in possession and control of any property within the city limits and located in a zone district other than those designated in subsection (1) shall construct, maintain or allow to exist any barbed wire or electric fence within ten feet of any property line of said property which abuts any of the zone districts designated in subsection (1) or which abuts upon any public street, alley or other public place except as herein provided.

"(3) This section shall not apply to barbed wire fences existing within the city limits on or before March 28, 1974 or to

fences containing barbed wire only above a level six feet above the ground and containing fencing material other than electric or barbed wire below such level, commonly known as security fences.

"(4) Any person who violates the provisions of this section shall be guilty of a misdemeanor.

"Chapter 9.24 - Crimes Against the Public Peace.

"Section 9.24.010 - Disorderly conduct.

"(1) A person is guilty of disorderly conduct if he intentionally:

"(a) Uses abusive language or engages in conduct and thereby creates a risk of assault, riot or other public disturbance which may endanger the safety of persons or property; or

"(b) Disrupts any lawful assembly or meeting of persons without lawful authority; or

"(c) Obstructs vehicular or pedestrian traffic without lawful authority.

"(2) Disorderly conduct is a misdemeanor.

"Section 9.24.020 - Riot.

"(1) A person is guilty of riot if, acting with three or more other persons, he knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force against any other person or against property.

"(2) Riot is a gross misdemeanor.

"Section 9.24.030 - Failure to Disperse.

"(1) A person is guilty of failure to disperse if he congregates with a group of three or more other persons and there

are acts or conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property, and he refuses or intentionally fails to disperse when ordered to do so by a peace officer or other public servant engaged in enforcing or executing the law.

"(2) Failure to disperse is a misdemeanor.

"Section 9.24.040 - Keeping a Disorderly House.

"(1) A person is guilty of keeping a disorderly house if he:

"(a) Keeps any house or place of business and suffers or permits therein at any time any riotous or disorderly conduct, drunkenness or fighting to the annoyance of the public; or

"(b) Keeps any house of public resort wherein the peace, comfort, quietude or decency of the public may be suffered or permitted to be disturbed or keeps any inn, hotel, lodging house, boarding house, barroom or saloon in a disorderly house.

"(2) Keeping a disorderly house is a misdemeanor.

"Section 9.24.050 - False Reporting.

"(1) A person is guilty of false reporting if, with knowledge that the information reported, conveyed or circulated is false, he initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe or emergency, knowing that such false report is likely to cause evacuation of a building, place of assembly or transportation facility or to cause public inconvenience or alarm.

"(2) False reporting is a gross misdemeanor.

"Section 9.24.060 - Disrupting School Activities.

"(1) A person is guilty of disrupting school activities if he comes upon any school ground or any street, sidewalk or public way adjacent thereto and willfully engages in conduct which causes or threatens to cause material disruption of the activities of such school.

"(2) Disrupting school activities is a misdemeanor.

"Chapter 9.28 - Crimes Against Property.

"Section 9.28.010 - Definitions. The following definitions shall apply in this chapter:

"(1) 'Appropriate lost or misdelivered property or services' means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property;

"(2) 'Deception' occurs when the actor knowingly:

"(a) Creates or confirms another's false impression which the actor knows to be false; or

"(b) Fails to correct another's impression which the actor previously has created or confirmed; or

"(c) Prevents another from acquiring information material to the disposition of the property involved; or

"(d) Transfer or encumbers property without disclosing a lien, adverse claim or other legal impediment to the enjoyment of

the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

"(e) Promises performance which the actor does not intend to perform or knows will not be performed.

"(3) 'Deprive,' in addition to its common meaning, means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets or computer programs, provided that the aforementioned are of a private proprietary nature;

"(4) 'Enter' includes the entrance of the person or the insertion of any part of his body or any instrument or weapon held by him and used or intended to be used to threaten or intimidate a person or to detach, remove or damage property;

"(5) 'Enters or remains unlawfully' means any unlicensed, uninvited or otherwise unprivileged entry into or remaining upon premises of another. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner;

"(6) 'Malice' and 'maliciously' mean with an evil intent, wish or design to vex, annoy or injure another person. Malice may

be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty;

"(7) 'Obtain control over,' in addition to its common meaning, means:

"(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

"(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

"(8) 'Owner' means a person, other than the actor, who has possession of or any other interest in the property or services involved and without whose consent the actor has no authority to exert control over the property or services;

"(9) 'Premises' includes any building, dwelling or any real property;

"(10) 'Receive' includes, but is not limited to, acquiring title, possession, control or a security interest or any other interest in the property;

"(11) 'Services' includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the use of equipment and commodities of a public utility nature such as gas, electricity, steam and water;

"(12) 'Stolen' means obtained by theft, robbery or extortion as defined in Title 9A, RCW;

"(13) 'Wrongfully obtains' or 'exerts unauthorized control'
means:

"(a) To take the property or services of another; or

"(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian or officer of any person, estate, association or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody or control, to secrete, withhold or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto.

"Section 9.28.020 - Malicious Mischief.

"(1) A person is guilty of malicious mischief if he knowingly and maliciously causes physical damage to the property of another in an amount not exceeding two hundred fifty dollars;

"(2) For the purposes of this section, 'physical damage,' in addition to its ordinary meaning, shall include:

"(a) Alteration, damage or erasure of records, information, data or computer programs which are electronically recorded for use in computers; and

"(b) Removal, alteration or defacing of any street sign, legal notice, official bulletin, poster or advertisement without lawful authority or consent of the owner; and

"(c) Cutting, altering, changing, removing, disconnecting or connecting with any wire, main, pipe, stop-cock, meter, hydrant, valve, pump, conduit or cable without lawful authority; and

"(d) Posting or attaching any bills, handbills, posters or placards upon any post, fence, tree, building or other structure without lawful authority or consent of the owner.

"(3) Malicious mischief is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars; otherwise it is a misdemeanor.

"Section 9.28.030 - Throwing Articles.

"A person is guilty of a misdemeanor if he intentionally or maliciously throws any thing at, against or upon any house, building, structure, vehicle or premises of another person without lawful authority or consent of the owner.

"Section 9.28.040 - Unlawful Issuance of a Bank Check.

"(1) A person is guilty of unlawful issuance of a bank check if, with intent to defraud, he makes, draws, utters or delivers to another person any check or draft on a bank or other depository for the payment of money in an amount not exceeding two hundred fifty dollars, knowing at the time of such drawing or delivery that he has not sufficient funds in or credit with said bank or depository to meet said check or draft in full upon its presentation.

"(2) The word 'credit' as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check or draft and the uttering or delivering of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

"(3) Unlawful issuance of a bank check is a gross misdemeanor.

"Section 9.28.050 - Theft.

"(1) A person is guilty of theft if, with regard to property or services of two hundred fifty dollars or less in value, he:

"(a) Wrongfully obtains or exerts unauthorized control over the property or services of another, or the value thereof, with intent to deprive him of such property or services; or

"(b) By color or aid of deception obtains control over the property or services of another, or the value thereof, with intent to deprive him of such property or services; or

"(c) Appropriates lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services; or

"(d) Commits any offense defined as a larceny at common law or elsewhere outside of this chapter.

"(2) In any prosecution for theft, it shall be a sufficient defense that the property or service was appropriated openly and avowedly under a claim of title preferred in good faith, even though the claim be untenable.

"(3) Theft is a gross misdemeanor.

"Section 9.28.060 - Possessing Stolen Property.

"(1) A person is guilty of possessing stolen property if he receives, retains, possesses, conceals or disposes of stolen property having a value of two hundred fifty dollars or less, knowing that it has been stolen, and withholds or appropriates the

same to the use of any person other than the true owner or person entitled thereto.

"(2) The fact that the person who stole the property has not been convicted, apprehended or identified is not a defense to a charge of possessing stolen property.

"(3) Possessing stolen property is a gross misdemeanor.

"Section 9.28.070 - Obscuring the Identity of a Machine.

"(1) A person is guilty of obscuring the identity of a machine if he knowingly:

"(a) Obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance or other device with intent to render it unidentifiable; or

"(b) Possesses a vehicle, machine, engine, apparatus, appliance or other device held for sale knowing that the serial number or other identification number or mark has been obscured.

"(2) As used in this section, 'obscure' means to remove, deface, cover, alter, destroy or otherwise render unidentifiable.

"(3) Obscuring the identity of a machine is a gross misdemeanor.

"Section 9.28.080 - Criminal Trespass in the First Degree.

"(1) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building or on real property adjacent thereto or upon real property which is fenced or otherwise enclosed in a manner designed to exclude intruders.

"(2) Criminal trespass in the first degree is a gross misdemeanor.

"Section 9.28.090 - Criminal Trespass in the Second Degree.

"(1) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another.

"(2) Criminal trespass in the second degree is a misdemeanor.

"Section 9.28.100 - Defenses to Criminal Trespass. In any prosecution for criminal trespass under Sections 9.28.080 or 9.28.090, it is a defense that:

"(1) A building involved in an offense under Section 9.28.080 was abandoned; or

"(2) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

"(3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain.

"Section 9.28.110 - Vehicle Prowling.

"(1) A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle.

"(2) Vehicle prowling is a gross misdemeanor.

"Section 9.28.120 - Littering.

"(1) A person is guilty of littering if he throws, drops, deposits, discards or otherwise disposes of litter upon any public

property within the city or upon private property within the city not owned by him, or in the waters of the city, whether from a vehicle or otherwise, including but not limited to any highway, park, recreational area, road, street or alley, except:

"(a) When such property is designated by the city for the disposal of garbage and refuse and such person is authorized to use such property for such purpose; or

"(b) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said private or public property or waters.

"(2) As used in this section, 'litter' means all waste material, including but not limited to disposable packages or containers.

"(3) Littering is a misdemeanor. In addition to the penalties applicable to this title, a person convicted of littering may be directed in the sound discretion of the court to pick up and remove from any public place or any private property, with prior permission of the legal owner upon which it is established by competent evidence that such person has deposited litter, any or all litter deposited thereon by anyone prior to the date of execution of sentence.

"Section 9.28.130 - Reckless Burning.

"(1) A person is guilty of reckless burning if he knowingly causes a fire or explosion, whether on his own property or that of another and thereby recklessly places a building or other

structure or any vehicle, railway car, aircraft or watercraft or any hay, grain, crop or timber, whether cut or standing, in danger of destruction or damage.

"(2) In any prosecution for reckless burning, it shall be a defense if the defendant establishes by a preponderance of the evidence that no person other than the defendant had a possessory or pecuniary interest in the damaged or endangered property, or if other persons had such an interest, all of them consented to the defendant's conduct and that the defendant's sole intent was to destroy or damage the property for a lawful purpose.

"(3) Reckless burning is a gross misdemeanor.

"Chapter 9.32 - Crimes Against Government Operations

"Section 9.32.010 - Definitions. As used in this chapter, 'official detention' means:

"(a) Restraint pursuant to a lawful arrest; or

"(b) Any facility used for the confinement of a person arrested, charged or convicted of an offense or for confinement pursuant to a court order or other legal authority; or

"(c) Official custody incident to any of the foregoing for purposes of work release, court appearances, transportation, recreation, medical treatment and other incidental purposes.

"Section 9.32.020 - Criminal Impersonation.

"(1) A person is guilty of criminal impersonation if he:

"(a) Assumes a false identity and does an act in his assumed character with intent to defraud another or for any other unlawful purpose; or

"(b) Pretends to be a representative of some person or organization or a public servant and does an act in his pretended capacity with intent to defraud another or for any other unlawful purpose.

"(2) Criminal impersonation is a gross misdemeanor.

"Section 9.32.030 - Obstructing a Public Servant or Officer

"(1) A person is guilty of obstructing a public servant if he:

"(a) Refuses or knowingly fails, without lawful excuse, to make or furnish any statement, report or information lawfully required of him by a public servant or officer; or

"(b) Makes any knowingly untrue statement in any such statement or report to a public servant or officer; or

"(c) Knowingly hinders, delays or obstructs any public servant or officer in the discharge of his official powers or duties.

"(2) Obstructing a public servant or officer is a misdemeanor.

"Section 9.32.040 - Resisting Arrest.

"(1) A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

"(2) Resisting arrest is a misdemeanor.

"Section 9.32.050 - Rendering Criminal Assistance.

"(1) A person is guilty of rendering criminal assistance if, with intent to prevent, hinder or delay the apprehension or prosecution of another person who he knows has committed a Class B

or C felony, a gross misdemeanor or a misdemeanor, as defined in RCW Title 9A or in this title, or is being sought by law enforcement officials for the commission of such a crime, or has escaped from official detention, he:

"(a) Harbors or conceals such person; or

"(b) Warns such person of impending discovery or apprehension; or

"(c) Provides such person with money, transportation, disguise or other means of avoiding discovery or apprehension; or

"(d) Prevents or obstructs, by use of force, deception or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or

"(e) Conceals, alters or destroys any physical evidence that might aid in the discovery or apprehension of such person; or

"(f) Provides such person with a weapon.

"(2) Rendering criminal assistance is a gross misdemeanor if the person assisted has committed or is being sought for a Class B or C felony as defined in RCW Title 9A.

"(3) Rendering criminal assistance is a misdemeanor if the person assisted has committed or is being sought for a gross misdemeanor or a misdemeanor or is the husband, wife, brother, sister, parent or child of the person rendering criminal assistance.

"Section 9.32.060 - Introducing Contraband.

"(1) A person is guilty of introducing contraband if he knowingly and unlawfully provides contraband to any person held in official detention.

"(2) As used in this section, 'contraband' means any article or thing which a person in official detention is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court, and any weapon, implement of escape, intoxicating liquor, opium, morphine or other narcotic.

"(3) Introducing contraband is a misdemeanor.

"Section 9.32.070 - Compounding.

"(1) A person is guilty of compounding if he requests, accepts or agrees to accept any pecuniary benefit, or confers or offers or agrees to confer any pecuniary benefit upon another pursuant to an agreement or understanding that the person receiving the pecuniary benefit will refrain from initiating a prosecution for a crime or offense.

"(2) As used in this section, 'pecuniary benefit' means any gain or advantage in the form of money, property, commercial interest or anything else the primary significance of which is economic gain.

"(3) In any prosecution for compounding, it is a defense if established by a preponderance of the evidence that the pecuniary benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime or offense.

"(4) Compounding is a gross misdemeanor.

"Section 9.32.080 - Escape.

"(1) A person is guilty of escape if he escapes from official detention or fails to return to official detention following temporary leave without lawful authority.

"(2) Escape is a gross misdemeanor.

"Section 9.32.090 - Refusing to Summon Aid for a Peace Officer.

"(1) A person is guilty of refusing to summon aid for a peace officer if, upon request by a person he knows to be a peace officer, he unreasonably refuses or fails to summon aid for such peace officer.

"(2) Refusing to summon aid for a peace officer is a misdemeanor.

"Section 9.32.100 - Failure to Appear.

"(1) A person is guilty of failure to appear if, having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before any court having jurisdiction over offenses under the Lacey Municipal Code, he knowingly fails without lawful excuse to appear as required. Unless otherwise established, the failure to appear when required shall be inferred to have been without lawful excuse.

"(2) Failure to appear is a misdemeanor.

"Section 9.32.110 - Official Misconduct.

"(1) A public servant is guilty of official misconduct if, with intent to obtain a benefit or to deprive another person of a lawful right or privilege, he intentionally:

"(a) Commits an unauthorized act under color of law; or

"(b) Refrains from performing a duty imposed upon him by law.

"(2) Official misconduct is a gross misdemeanor.

"Chapter 9.36 - Firearms and Weapons.

"Section 9.36.010 - Definitions. The following definitions shall apply in this chapter:

"(1) 'Dangerous weapon' includes but is not limited to any weapon or device capable of propelling a missile through the force of compressed air or gas or through the contraction or expansion of a rubber band or spring or similar device, including compressed air rifles and pistols and slingshots.

"(2) 'Firearm' includes but is not limited to any weapon or device capable of propelling a missile through the force of combustion or explosion of gunpowder or similar substances.

"Section 9.36.020 - Concealed weapons. A person is guilty of a gross misdemeanor if he:

"(1) Manufactures, sells, disposes of, or possesses any instrument or weapon of the kind usually known as a sand club, metal knuckles or spring blade knife, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement; or

"(2) Furtively carries with intent to conceal any dagger, dirk, revolver, pistol, firearm or other dangerous weapon or any

other instrument by which injury could be inflicted upon the person or property of another;

"Provided, however, that this section shall not apply to peace officers and other persons whose duty is to execute process or warrants or to make arrests, or to persons who have been lawfully licensed to carry such weapons within the city.

"Section 9.36.030 - Drawing weapons.

"(1) A person is guilty of a gross misdemeanor if he draws, displays or exhibits any firearm, dirk, dagger, sword, knife or other dangerous or deadly weapon in the presence of another, with intent to intimidate, annoy or injure another person, or in a manner which warrants alarm for the safety of other persons.

"(2) This section shall not apply to peace officers or others who are vested by law with the duty to preserve the public safety and order, to persons engaged in military activities sponsored by the state or federal government, or to any person who acts to protect himself or another against the use of presently threatened unlawful force by another.

"Section 9.36.040 - Discharging weapons. A person is guilty of a misdemeanor if he willfully fires, shoots or discharges any firearm or other dangerous weapon within the city or throws any deadly missile in a public place or in any place where any person might be endangered thereby, although no injury actually results; provided, however, that this section shall not apply to the discharge of a firearm in an approved firing range within the city.

"Chapter 9.40 - Minors.

"Section 9.40.010 - Definitions. The following definitions shall apply in this chapter:

"(1) 'Liquor' includes alcohol, spirits, wine and beer as such terms are defined in RCW 66.04.010 and all fermented, spiritous, vinous or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spiritous, vinous or malt liquor, or otherwise intoxicating; and every liquid, solid, semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, solid, semisolid or other substance which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating;

"(2) 'Minor' means any person under the age of twenty-one years unless otherwise specifically designated;

"(3) 'Tavern' means any establishment with special space and accomodation for sale by the glass and for consumption on the premises of beer; provided that bona fide restaurants, dining rooms and cafes serving commercial food to the public shall not be classified as taverns during the hours such food service is made available to the public.

"Section 9.40.020 - Minors Frequenting Taverns. A person is guilty of a misdemeanor if he:

"(1) Serves or allows to remain on the premises of any tavern any minor; or

"(2) Is a minor and enters or remains on the premises of any tavern; or

"(3) Is a minor and represents his age as being twenty-one or more years for the purpose of securing admission to or remaining on the premises of any tavern.

"Section 9.40.030 - Furnishing Liquor to Minors. A person is guilty of a misdemeanor if he:

"(1) Sells, gives or otherwise supplies liquor to any minor; or

"(2) Permits a minor to consume liquor on his premises or on any premises under his control; or

"(3) Invites a minor into a public place where liquor is sold and treats, gives or purchases liquor for such minor, or permits a minor to treat, give or purchase liquor for him, or holds out such minor to be over the age of twenty-one years for the purpose of permitting such minor to obtain liquor;

"Provided, however, that this section shall not apply to liquor given or permitted to be given to a minor by his parent or guardian for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes or used in connection with bona fide religious services.

"Section 9.40.040 - Minors Purchasing and Possessing Liquor. A person is guilty of a misdemeanor if he is a minor and he:

"(1) Purchases or attempts to purchase any liquor; or

"(2) Acquires, possesses or consumes any liquor;

"Provided, however, that this section shall not apply to liquor given or permitted to be given to a minor by his parent or guardian for beverage or medicinal purposes, or administered to him

by his physician or dentist for medicinal purposes, or used in connection with bona fide religious services.

"Section 9.40.050 - Cigarette and Tobacco Sales to Minors.

A person is guilty of a misdemeanor if he sells, gives, furnishes or causes to be furnished any cigar, cigarette, cigarette papers or wrapper or tobacco in any form to any person under the age of eighteen years, or if he is under the age of eighteen years and possesses or smokes the same.

"Section 9.40.060 - Contributing to Delinquency.

"(1) In any case where a child under the age of eighteen years is dependent or delinquent as such terms are defined in RCW Chapter 13.04, any parent or parents, legal guardian or person having custody of such child, or any other person who, by any act or omission, encourages, causes or contributes to the dependency or delinquency of such child is guilty of a misdemeanor.

"(2) On conviction under this section, the court may suspend sentence and impose conditions as to conduct in the premises of any person so convicted, and make such suspension depend on the fulfillment by such person of the conditions imposed. As a condition of such suspension, the court may also require a bond in such sum as it may designate to secure the performance of the conditions imposed.

"Section 9.40.070 - Sale of De-Icers to Minors. A person is guilty of a misdemeanor if he sells, barter, gives or otherwise furnishes a minor any device or devices known by the name of "de-icer" or any other similar name, the same being used as a mechanical and/or chemical means of instantly chilling drinking glasses, such device

or devices containing carbon dioxide or other gaseous substances for such purpose."

Section 3. Section 1.12.010 of the Lacey Municipal Code is hereby amended to read as follows:

"Except where a different penalty is specifically provided by ordinance, any person convicted of a misdemeanor under the ordinances of the City of Lacey shall be punished by a fine of not more than ~~five-hundred-dollars~~ \$500.00 or by imprisonment not to exceed ~~six-months~~ ninety days, or by both such fine and imprisonment, and each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of Lacey is committed, continued, or permitted by any such person, and he shall be punished accordingly.

Section 4. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance and its application to other persons or circumstances shall not be affected.

Section 5. The repeal of certain sections of the Lacey Municipal Code by Section 1 of this Ordinance refers to those certain sections of the Lacey Municipal Code as they existed prior to the passage of Ordinance No. 499 and, if Ordinance No. 499 is declared to be invalid, said references are to the sections as they continued to exist after the passage of Ordinance No. 499. The City Council that its intention in passing Ordinance No. 499 was that the repealing provisions of Section 1 of said Ordinance should take

effect only if the provisions of Section 2 enacting a substitute criminal code were also to be in effect.

Section 6. It is the intent of the City Council in passing this Ordinance to readopt the provisions set forth herein only if said readoption is ruled necessary. It is further the intent of the City Council to reaffirm all of the provisions of Ordinance No. 499 as passed on August 10, 1978.

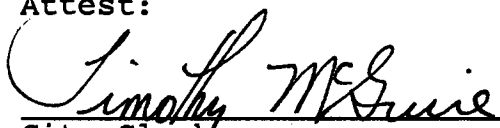
Section 7. If Ordinance No. 499 should be declared to be invalid, the enforcement of criminal laws within the City of Lacey would be substantially effected creating a public safety emergency unless this Ordinance is passed and made effective upon its passage; therefore, the City Council declares that said facts are true and that said facts constitute this Ordinance to be a public emergency ordinance necessary for the protection of the public health and public safety and shall be effective upon its passage.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, this 14th day of March, 1985.

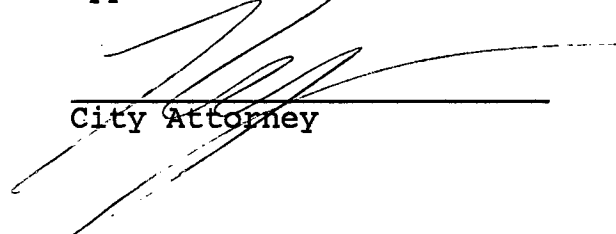
CITY COUNCIL

BY 
Mayor

Attest:


City Clerk

Approved as to Form:


City Attorney

Posted: 3-15-85