

ORDINANCE 719

CITY OF LACEY

AN ORDINANCE READOPTING THE PROVISIONS OF ORDINANCE NO. 703 RELATING TO HARASSMENT, THE MAKING OF INTIMIDATING PHONE CALLS AND DOMESTIC VIOLENCE, DECLARING CERTAIN VIOLATIONS TO CONSTITUTE MISDEMEANORS AND GROSS MISDEMEANORS, ADDING NEW SECTIONS TO THE LACEY MUNICIPAL CODE AND DECLARING AN EMERGENCY

WHEREAS, the City Council duly considered and passed on October 25, 1984, Ordinance No. 703, in order to protect its citizens against harassment and the making of intimidating phone calls in addition to protecting its citizens from domestic violence in the same manner as provided for by State law and after passage of said ordinance, the City duly published the same in the City's official newspaper which is published within the City, 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. 703 may be in jeopardy and the Council takes this action in readopting the substantive provisions of Ordinance No. 703 solely for the purpose of protecting the City and its citizens against such a contingency; now, therefore

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 section 9.12.050 to read as follows:

"A person is guilty of a gross misdemeanor if such person, with intent to harass, intimidate, torment or embarrass any other person, shall make a telephone call to such other person:

"A. Using any lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act; or

"B. Anonymously or repeatedly or at an extremely inconvenient hour, whether or not conversation ensues; or

"C. Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

"Notwithstanding the gross misdemeanor classification called for herein, should State law provide for a higher grade of offense for multiple violations of the acts prohibited by this section, said State law shall prevail."

Section 2. There is hereby added to the Lacey Municipal Code a new section 9.12.060 to read as follows:

"A. A person is guilty of harassment if the person knowingly threatens:

"1. To cause bodily injury in the future to the person threatened or to any other person; or

"2. To cause physical damage to the property of a person other than the actor; or

"3. To subject the person threatened or any other person to unlawful physical confinement or restraint; or

"4. Maliciously to do any other act which is intended to harm substantially the person threatened or another with respect to his or her physical or mental health, safety, financial condition, or personal relationships.

"B. A person who harasses another is guilty of a gross misdemeanor. Provided, however, that should state law provide for a

higher grade of offense for multiple violations of the acts prohibited by this section, said state law shall prevail."

Section 3. There is hereby added to the Lacey Municipal Code a new section 9.12.065 to read as follows:

"Any offense committed in violation of section 9.12.050 or 9.12.060 may be deemed to have been committed where the conduct occurred or at the place from which the threat or threats or telephone call was made or at the place where the threat or threats or telephone call was received."

Section 4. There is hereby added to the Lacey Municipal Code a new section 9.12.070 to read as follows:

"A. Because of the likelihood of repeated harassment directed at those who have been victims of harassment in the past, and because of the serious nature of domestic violence, when any defendant is arrested for a crime involving harassment or domestic violence and is released from custody before trial on bail or personal recognizance, the court authorizing the release may enter a protective order as set forth in this section. Upon arraignment of any person charged with a crime involving harassment or domestic violence, the court shall determine the necessity of imposing a protective order pending trial. Further, if a defendant is convicted of a crime involving harassment or domestic violence, the court shall consider entering a protective order. A protective order under the terms of this section, may require that the defendant:

- "1. Not have any contact with the victim or victims;
- "2. Stay away from the home, school, business, or place of employment of the victim or victims of the alleged offense;

"3. Refrain from harassing, intimidating, threatening, or otherwise interfering with the victim or victims of the alleged offense and such other persons, including but not limited to members of the family or household of the victim, as shall be specifically named by the court in the order.

"B. If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of harassment or violence, the court may also require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the city's police chief or to the defendant's counsel for safe keeping.

"C. Willful violation of a court order issued under this section or of a restraining order or other protective order issued by a court pursuant to Title 26 RCW or Chapter 10.99 RCW is a misdemeanor. The written order issued pursuant to this section shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under section 9.12.070 of the Lacey Municipal Code and will subject a violator to arrest. A certified copy of the order shall be provided to the victim."

Section 5. There is hereby added to the Lacey Municipal Code a new section 9.12.072 to read as follows:

"The term 'harassment' as used in section 9.12.070, may include, but is not limited to any of the following crimes:

"(1) Simple assault (LMC 9.12.010)

"(2) Reckless endangerment (LMC 9.12.020)

"(3) Coercion (LMC 9.12.030)

- "(4) Custodial interference (LMC 9.12.040)
- "(5) Telephone intimidation or harassment (LMC 9.12.050)
- "(6) Harassment (LMC 9.12.060)
- "(7) Criminal trespass in the first degree (LMC 9.28.080)
- "(8) Criminal trespass in the second degree (LMC 9.28.090)
- "(9) Malicious mischief in the third degree (LMC 9.28.020)
- "(10) Malicious harassment (RCW 9A.36.080)
- "(11) Assault in the first degree (RCW 9A.36.010)
- "(12) Assault in the second degree (RCW 9A.36.020)
- "(13) Extortion in the first degree (RCW 9A.56.120)
- "(14) Extortion in the second degree (RCW 9A.56.130)
- "(15) Burglary in the first degree (RCW 9A.52.020)
- "(16) Burglary in the second degree (RCW 9A.52.030)
- "(17) Malicious mischief in the first degree (RCW 9A.48.070)
- "(18) Malicious mischief in the second degree (RCW 9A.48.080)
- "(19) Kidnapping in the first degree (RCW 9A.40.020)
- "(20) Kidnapping in the second degree (RCW 9A.40.030)
- "(21) Unlawful imprisonment (RCW 9A.40.040)
- "(22) Rape in the first degree (RCW 9A.44.040)
- "(23) Rape in the second degree (RCW 9A.44.050)
- "(24) Rape in the third degree (RCW 9A.44.060)
- "(25) Indecent liberties (RCW 9A.44.100)
- "(26) Violation of the provisions of a restraining order or other protective order issued by a court pursuant to Title 26 RCW, including the provisions of Chapter 263, Laws of 1984
- "(27) Violation of the provisions of a protective or no-contact order issued by a court pursuant to LMC 9.12.070.

"The term 'domestic violence' includes, but is not limited to the commission of any of the crimes listed under the definition of

'harassment' when such a crime is committed by one family or household member against another.

"The term 'family or household members' means spouses, former spouses, adult persons related by blood or marriage, persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time."

Section 6. There is hereby added to the Lacey Municipal Code a new section 9.12.074 to read as follows:

"The penalties and remedies provided in sections 9.12.050 through 9.12.076 shall not preclude the victims of the crimes listed in said sections from seeking any other remedies otherwise available under law."

Section 7. There is hereby added to the Lacey Municipal Code a new section 9.12.076 to read as follows:

"All procedures to be followed by the court, clerk of the court, and law enforcement officers in enforcing and adjudicating the terms of sections 9.12.070 through 9.12.074 of this code shall be in accordance with RCW Chapter 10.99 relating to domestic violence."

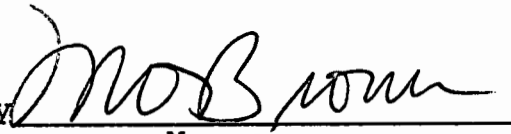
Section 8. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Section 9. 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. 703 as passed on October 25, 1984.

Section 10. If Ordinance No. 703 should be declared to be invalid, the City's ability to protect its citizens from serious harassment, intimidating phone calls and domestic violence would be substantially affected, 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.

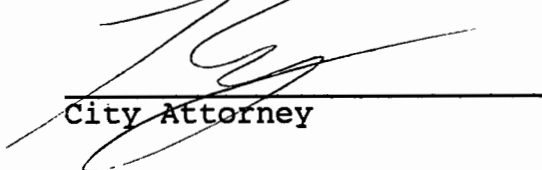
CITY COUNCIL

BY 
Mayor

Attest:


City Clerk

Approved as to form:


City Attorney

Posted: 3-15-85