

ORDINANCE 725

CITY OF LACEY

AN ORDINANCE READOPTING CHAPTER 5.12 OF THE LACEY MUNICIPAL CODE RELATING TO THE REGISTRATION OF MERCHANTS AND OTHER BUSINESSES WITHIN THE CITY, PROVIDING FOR TEMPORARY SALES ACTIVITIES AND PROVIDING PENALTIES FOR VIOLATION OF SAID CHAPTER

WHEREAS, the City Council duly considered, passed, and published an ordinance or ordinances enacting the chapter of the Lacey Municipal Code identified in the title to this ordinance relating to the subject matter so identified, and

WHEREAS, it has been asserted that ordinances of the City 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 that portion of the Lacey Municipal Code identified in the title to this ordinance may be in jeopardy and the Council takes this action in readopting the substantive provisions of said chapter 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. Chapter 5.12 of the Lacey Municipal Code is hereby readopted to read as follows:

Chapter 5.12

MERCHANTS' REGISTRATION

Sections:

- 5.12.010 Definitions--Application--Registration fee.
- ~~5.12.015~~ Temporary sales activities.
- ~~5.12.020~~ Registration required--Posting.
- 5.12.040 Violations--Penalty.

5.12.010 Definitions--Application--Registration fee.

A. Whenever the word "business" is used herein, it applies to any person, firm or corporation which operates any store or place for the sale of goods, services, wares or merchandise at retail or at wholesale, within the corporate limits of the city, on a temporary or permanent basis. Each such store or place shall be considered a separate business even though more than one such store or place is owned by the same person, firm or corporation. "Business," as used solely in this chapter, shall not apply to the temporary sale activities of nonprofit, religious, educational or charitable organizations where such activities are incidental or customary to the charitable, educational or religious purpose of the organization and such organization has notified the city in writing of the dates upon which the activities will be conducted, nor shall "business," as used solely in this chapter, apply to the temporary sale activities of other persons, firms or corporations conducted on premises or in facilities furnished by a person, firm or corporation holding a master business

registration certificate for temporary sales pursuant to Section 5.12.015 nor to the sales activities of persons, firms, or corporations conducted on premises or in facilities furnished by a person, firm, or corporation holding a business registration certificate for a "farmers' market." "Temporary," as used solely in this chapter, shall be any business operated for 30 consecutive days or less within the corporate limits of the city or which may be located in a mobile unit. "Farmers' market," as used solely in this chapter, means an organization of local growers and hand-crafters formed for the purpose of selling goods grown or made by said members where the normal requirement for participation is that those members selling have either grown or crafted 75 percent of their product.

. B. Any proposed new business, and any business which changes its state tax number or moves its location, shall make application for registration to the city. Such application shall be accompanied by the fee established by resolution of the city council; provided, however, that until such time as the council passes a resolution establishing the fee for a "farmers' market," the annual application fee for such organization shall be \$60.00. The application shall be reviewed by the building official, who shall check the zoning of the proposed business location and refer the application to the fire chief for inspection of the premises prior to issuing the business registration certificate. In addition, the police department shall review the type of business proposed and the products to be sold in order to prevent the potential sale of stolen goods or the practice of fraud upon the public, in addition to reviewing the location of the business for the prevention of a safety hazard to the public. In addition, all applicants for businesses dealing in food services shall provide a copy of the certificate issued by the county health department prior to the business registration certificate being issued. The city shall notify the applicant of the results of the investigation and inspection within ten working days after the application is submitted, a business registration certificate shall be issued to the applicant.

C. A registration certificate will be valid for the calendar year for which the certificate is issued. The city shall issue a new registration certificate for each calendar year during which the business continues to operate after the initial calendar year in which the business is registered. (Ord. 694 \$1, 1984: Ord. 666 \$6, 1982: Ord. 646 \$1, 1982: Ord. 642 \$1, 1982: Ord. 608 \$4, 1980: Ord. 474, 1977: Ord. 357 \$1, 1974: Ord. 181 \$1, 1971).

5.12.015 Temporary sales activities. A. Any person, firm or corporation providing premises or facilities for the temporary sale activities of other persons, firms or corporations other than the temporary sale activities of nonprofit, religious, educational or charitable organizations, which combined sales activities are commonly known as or similar to a flea market or swap meet, shall make application with the director of administrative services for a master business registration certificate for temporary sales. Such application shall be accompanied by the fee established by resolution of the city council for each three days or portion thereof during which such temporary sales activities are planned to take place upon the premises or in the facilities of the applicant with a maximum fee for the calendar year or the balance thereof in the sum so established by resolution. The application shall be processed and referred and the master certificate granted or denied in the same manner as is specified in Section 5.12.010(B).

B. Any person holding a master certificate for temporary sales shall be required to:

1. Issue, on behalf of the city, to each temporary seller, a seller's permit for each day the seller conducts sales activities and charge for the issuance of the permit the sum established by resolution of the city council, which sum shall be remitted to the city. Upon issuing the permit, the name, address, telephone number and Washington driver's license or other identification number of the seller, and the booth number and the identification or serial numbers of all property to be sold containing such numbers, shall be recorded and maintained for inspection by the city;

2. Collect from each person, firm or corporation conducting temporary sales activities on the premises, Washington State sales tax and remit the same to the State of Washington, Department of Revenue. A record of the sales by each temporary seller shall be recorded on a three-part form sanctioned by the State Department of Revenue with one copy provided to the Department of Revenue and one copy provided to the city.

C. Any person conducting sales activities on the premises or in the facilities provided by the holder of a master certificate shall be required to:

1. Provide accurate information required to be recorded by the master certificate holder including a full and complete listing of all identification or serial numbers of merchandise containing said numbers;

2. Complete the sales tax form referred to in subsection B, and deposit all sales taxes due with the master certificate holder;

3. Display prominently at the location in which the sales activities are conducted the day seller's permit issued by the master certificate holder on behalf of the city;

4. If any food is to be sold, prominently display proof of county health department approval of the sales in the location in which the sales are to be made.

D. The city shall have the authority to inspect the premises and the merchandise of each seller at any reasonable time to carry out the provisions of this chapter. If, upon the basis of the inspection, it is determined that there is a reasonable likelihood that stolen property is being sold or fraud upon the public is being perpetrated by an individual seller, the police chief or his designee may prohibit further sales by the seller; provided, however, that an individual seller shall have the right to appeal the prohibition to the director of administrative services within five days after the prohibition taking effect.

E. A master certificate will be valid for the calendar year for which the certificate is issued. The city shall issue a new registration certificate for each calendar year during which the business continues to operate after the initial calendar year in which the business is registered upon the receipt of a yearly fee equal to the application fee set forth in this section.

F. If the holder of the master certificate fails to comply with requirements of this section, or allows sales activities to take place after being notified to prohibit sales by a particular seller, the director of administrative services may revoke the master certificate or refuse to issue a new master certificate for a subsequent calendar year. (Ord. 666 §7, 1982: Ord. 646 §2, 1982).

5.12.020 Registration required--Posting. The certificate provided for herein shall be posted in a conspicuous place in the place of business of the registrant. Such certificates shall expire December 31st of each year for permanent businesses and at the end of thirty consecutive days for temporary business, and are nontransferable. (Ord. 642 §2, 1982: Ord. 328 §1, 1974: Ord. 181 §2, 1971).

5.12.040 Violations--Penalty. Any person, firm or corporation engaging in any of the businesses, trades or occupations mentioned in this chapter within the city limits and who fails to comply with the registration provisions is guilty of a misdemeanor. (Ord. 642 §3, 1982: Ord. 328 §2, 1974: Ord. 206 §1, 1971: Ord. 181 §4, 1971).

Section 2. 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 Chapter 5.12 of the Lacey Municipal Code as originally adopted and further amended by ordinances of this Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON this 28th day of March, 1985.

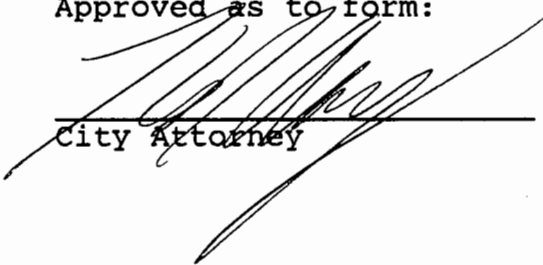
CITY COUNCIL

By 
Mayor

Attest:


City Clerk

Approved as to form:


City Attorney

Posted: March 29, 1985