

ORDINANCE

779

CITY OF LACEY

AN ORDINANCE RELATING TO SMOKING IN PUBLIC PLACES, PROVIDING FOR REGULATIONS AND THE IMPOSITION OF CIVIL FINES FOR VIOLATION OF SAID REGULATIONS, AND ADDING A NEW CHAPTER TO THE LACEY MUNICIPAL CODE

WHEREAS, the city council recognizes in conformance with the findings of the Washington State Legislature that there is increasing evidence that tobacco smoke in closely confined places may create a danger to the health of some citizens within the city and that in order to protect the health and welfare of those citizens it is necessary to prohibit smoking in public places except in areas designated as smoking areas; and

WHEREAS, the city wishes to establish regulations which are consistent with state law regulating the same subject matter but, by virtue of their adoption, will clearly allow enforcement of such regulations by the city; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON that there be added to the Lacey Municipal Code a new chapter, 9.46, to read as follows:

"9.46.010. As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

"A. 'Smoke' or 'smoking' means the carrying or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

"B. 'Public place' means that portion of any building or vehicle used by and open to the public, regardless of whether the

building or vehicle is owned in whole or in part by private persons or entities, the State of Washington, or other public entity, and regardless of whether a fee is charged for admission.

"Public places include, but are not limited to: Elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies and reception areas. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

"C. 'Restaurant' means any building, structure, or area used, maintained or advertised as, or held out to the public to be, an enclosure where meals are made available to be consumed on the premises, for consideration of payment.

"9.46.020. No person may smoke in a public place as defined herein, except in designated smoking areas.

"9.46.030. A. A smoking area may be designated in a public place by the owner or, in the case of a leased or rented space, by the lessee or other person in charge except in:

"1. Elevators; buses, except for private hire; streetcars; taxis, except those clearly and visibly designated by

the owner to permit smoking; public areas of retail stores and lobbies of financial institutions; office reception areas and waiting rooms of any building owned or leased by the State of Washington or by any city, county, or other municipality in the State of Washington; museums; public meetings or hearings; classrooms and lecture halls of schools, colleges, and universities; and the seating areas and aisle ways which are contiguous to seating areas of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas; and

"2. Hallways of health care facilities, with the exception of nursing homes, and lobbies of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas, if the area is not physically separated. Owners or other persons in charge are not required to incur any expense to make structural or other physical modifications in providing these areas.

"Except as provided in other provisions of this chapter, no public place, other than a bar, tavern, bowling alley, tobacco shop, or restaurant may be designated as a smoking area in its entirety. If a bar, tobacco shop, or restaurant is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

"B. Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas.

"C. Managers of restaurants who choose to provide smoking areas shall designate an adequate amount of seating to meet the demands of restaurant patrons who wish to smoke. Owners of

restaurants are not required to incur any expense to make structural or other physical modifications in providing these areas. Restaurant patrons shall be informed that separate smoking and nonsmoking sections are available.

"D. Except as otherwise provided in this chapter, a facility or area may be designated in its entirety as a nonsmoking area by the owner or other person in charge.

"9.46.040. Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall make every reasonable effort to prohibit smoking in public places by posting signs prohibiting or permitting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place. The boundary between a nonsmoking area and a smoking permitted area shall be clearly designated so that persons may differentiate between the two areas.

"9.46.050. This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the state fire marshal or by other law, ordinance or regulation.

"9.46.060. A. Any person intentionally violating this chapter by smoking in a public place not designated as a smoking area or any person removing, defacing or destroying a sign required by this chapter is subject to a civil fine of up to \$100.00.

City law enforcement personnel shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. Said infractions shall be processed and fines paid in the manner set forth in Section 7(1) of Chapter 236, Laws of 1985, Regular Session, with fines assessed and recovered to be paid to the city.

"9.46.070. Violations of Sections 9.46.030 and 9.46.040 shall be treated and processed by the city pursuant to the civil penalty provisions of Chapter 14.40 of the Lacey Municipal Code. Provided, however, that said actions shall not bar the city from maintaining an action for injunctive relief in order to correct a violation and to assess and recover the penalties for such violation."

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, this 22nd day of May, 1986.

CITY COUNCIL
MOBrow
BY _____
Mayor

Attest:
Linda McGuire

Approved as to form:
[Signature]
City Attorney

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