

ORDINANCE 910

CITY OF LACEY

AN ORDINANCE RELATING TO CONTROLLED SUBSTANCES, DRUG PARAPHERNALIA, LEGEND DRUGS AND STEROIDS; REPEALING CHAPTER 9.44 AND IN LIEU THEREOF, ADOPTING A NEW CHAPTER 9.44, ALL OF THE LACEY MUNICIPAL CODE.

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

Section 1. Chapter 9.44 of the Lacey Municipal Code is hereby repealed.

Section 2. There is hereby adopted a new chapter, 9.44, of the Lacey Municipal Code to read as follows:

"9.44.010. As used in this chapter, the terms set forth in RCW Sections 69.41.010, 69.41.210, 69.41.300, 69.50.101, and 69.50.102 shall have the meanings set forth in said sections as now enacted or as may hereafter be amended by the Legislature.

"9.44.020. Those certain schedules set forth in RCW 69.50.204 through 69.50.212, as the same exist or shall hereafter be amended either by action of the Legislature or by action of the State Board of Pharmacy as authorized in RCW 69.50.201 are hereby adopted by reference as part of this chapter.

"9.44.030. Any person who possesses forty grams or less of marijuana shall be guilty of a misdemeanor.

"9.44.040. A. It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test,

analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

"B. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

"C. Any person eighteen years of age or over who violates subsection (B) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

"D. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor."

"9.44.050. All procedures to be followed by law enforcement officers in the enforcement of section 9.44.030 and 9.44.040 shall be in accordance with the requirements of RCW 69.50.

"9.44.060. It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse under chapter 18.88 RCW when authorized by a board of nursing, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners, a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery, a dentist licensed to practice dentistry, a podiatric physician or surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine, in any province of Canada which shares a common border with the state of Washington or in any state of the United States: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or

employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners. Violation of this section involving possession shall be deemed a misdemeanor.

"9.44.070. There shall be affixed to every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date: Provided, That the practitioner may omit the name and dosage of the drug if he determines that his patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient. Violation of this section shall be deemed a misdemeanor.

"9.44.080. A. A practitioner shall not prescribe, administer, or dispense steroids, as defined in RCW 69.41.300, or any form of autotransfusion for the purpose of manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

B. A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing,

administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based.

C. Any practitioner who violates this section is guilty of a gross misdemeanor.

"9.44.090. A person who possesses under 200 tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a gross misdemeanor.

"9.44.100. All procedures to be followed by law enforcement officers in the investigation and enforcement of sections 9.44.060 through 9.44.090 of this chapter shall be in accordance with those procedures set forth in chapter 69.41 RCW.

"9.44.110. A. A person who is convicted of a gross misdemeanor under this chapter shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not more than 365 days or by both fine and imprisonment.

B. A person who is convicted of a misdemeanor under this chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than 90 days or by both fine and imprisonment.

C. Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. For purposes of this section, an offense is

considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

D. A person who is convicted of a misdemeanor or violates any provision of sections 9.44.030 and 9.44.040 shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of forty hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred.

E. If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter or equivalent state law, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

If the conviction is for the juvenile's first violation of this chapter or chapters 66.44, 69.41 or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapters 66.44, 69.41 or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Section 3: The summary of this ordinance, which is attached hereto, is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 13TH day of June, 1991.

CITY COUNCIL

By Gene C. Laddell  
Mayor

Attest:

Approved as to form:

Charlotte M. Taylor  
City Clerk

[Signature]  
City Attorney

Published: June 17, 1991

SUMMARY FOR PUBLICATION  
ORDINANCE 910

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on June 13, 1991, Ordinance No. 910 entitled "AN ORDINANCE RELATING TO CONTROLLED SUBSTANCES, DRUG PARAPHERNALIA, LEGEND DRUGS AND STEROIDS; REPEALING CHAPTER 9.44 AND IN LIEU THEREOF, ADOPTING A NEW CHAPTER 9.44, ALL OF THE LACEY MUNICIPAL CODE."

A section by section summary of this ordinance is as follows:

Section 1 repeals the current chapter 9.44 of the Lacey Municipal Code relating to controlled substances.

Section 2 adopts a new chapter 9.44 of the Lacey Municipal code dealing with the subject set forth in this summary. The sections of the new chapter are summarized as follows:

Section 9.44.010 adopts the definitions of terms set forth in state statute.

Section 9.44.020 adopts the schedules listing various types of controlled substances set forth in state statute or by action of the State Board of Pharmacy.

Section 9.44.030 declares possession of 40 grams or less of marijuana to be a misdemeanor.

Section 9.44.040 declares it unlawful to possess, use, sell or deliver drug paraphernalia. Violation of the prohibitions contained in this section is declared to be either a misdemeanor or a gross misdemeanor.

Section 9.44.050 states that procedures to be followed by local law enforcement officers shall be the same as the requirements set forth in state statute.

Section 9.44.060 declares it unlawful to sell, deliver or possess any legend drug except under the order or prescription of certain named physicians and other professionals. The violation of this section is declared to be a misdemeanor.

Section 9.44.070 describes the type of labelling necessary for legend drug containers.

Section 9.44.080 prohibits the prescription, administration or dispensing of steroids without a medical necessity to do so. Violation of this section is declared to be a gross misdemeanor.



Section 9.44.090 declares it to be a gross misdemeanor to possess steroids without a valid prescription.

Section 9.44.100 requires local law enforcement officers to follow the procedures set forth in state law in matters relating to legend drugs and steroids.

Section 9.44.110 provides as follows:

A. A person who is convicted of a gross misdemeanor under this chapter shall be punished by a fine of not more than \$5,000.00 or by imprisonment for not more than 365 days or by both fine and imprisonment.

B. A person who is convicted of a misdemeanor under this chapter shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than 90 days or by both fine and imprisonment.

C. Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs.

D. A person who is convicted of a misdemeanor or violates any provision of sections 9.44.030 and 9.44.040 shall be punished by imprisonment for not less than 24 consecutive hours, and by a fine of not less than \$250.00. On a second or subsequent conviction, the fine shall not be less than \$500.00. These fines shall be in addition to any other fine or penalty imposed. Unless the court finds that the imposition of the minimum imprisonment will pose a substantial risk to defendant's physical or mental well-being or that local jail facilities are in an overcrowded condition, the minimum term of imprisonment shall not be suspended or deferred. If the court finds such risk or overcrowding exists, it shall sentence the defendant to a minimum of forty hours of community service. If a minimum term of imprisonment is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based. Unless the court finds the person to be indigent, the minimum fine shall not be suspended or deferred.

E. If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter or equivalent state law, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

If the conviction is for the juvenile's first violation of this chapter or chapters 66.44, 69.41 or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapters 66.44, 69.41 or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.

Section 3 approves this summary.

A copy of the full text of this ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: June 17, 1991.