

ORDINANCE 991

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, REQUIRING LICENSING AND REGULATING THE CONDUCT OF ADULT ARCADES, BOOKSTORES, NOVELTY STORES AND VIDEO STORES AND ADDING A NEW CHAPTER, 5.40 TO THE LACEY MUNICIPAL CODE.

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 chapter, 5.40 ADULT BUSINESSES, to read as follows:

**5.40.010 Purpose and intent.** It is the purpose of this chapter to regulate the conduct of sexually oriented businesses and related activities in order to promote the health, safety, morals, and general welfare of the citizens of the City of Lacey. It is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the state or federal constitutions, or to deny access by the distributors and exhibitors of sexually oriented materials to adults. The provisions of this chapter are not intended to nor shall they have the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, nor, is it the intent of this chapter to condone or legitimize the distribution of obscene materials.

**5.40.020 Definitions.**

- A. "Adult Arcade" shall mean an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other

image producing machines, for viewing by five (5) or fewer persons each, are used to show films, motion pictures, video cassettes, slides, video disks or other photographic reproductions which are characterized by the depiction or description of "Specific Sexual Activities" or "Specific Anatomical Areas".

B. "Adult Bookstore", "Adult Novelty Store", or "Adult Video Store" shall mean a commercial establishment which has as one of its principal business purposes the offering for sale or rental for some form of consideration, books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, video disks or other visual representations which are characterized by the depiction or description of specific sexual activities or specific anatomical areas. Provided, however, that video stores that sell and/or rent only video tapes or other graphic reproductions and associated equipment shall only come within the definition set forth herein if twenty (20) percent or more of its stock in trade or revenue comes from the rental or sale of video tapes or other photographic reproductions or associated equipment which are characterized by the depiction or description of specific sexual activities or specific anatomical areas.

C. "Specific anatomical areas" means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks and the female breasts below a point immediately above the top of the areola.
2. Human male genitals in a discernably turgid state, even if completely and opaquely covered.

D. "Specific sexual activities" means:

1. Human genitals in a state of sexual stimulation, and or/
2. Acts of human masturbation, sexual intercourse or sodomy, and/or
3. Fondling or other erotic touching of human genitals, pubic region, buttocks or the female breasts.

#### **5.40.030 Licensing of Business.**

A. No person, firm, partnership, corporation, or other entity shall operate an adult arcade, adult bookstore, adult novelty store or adult video store without first obtaining a license issued pursuant to this chapter.

- B. Applications for such business establishments shall be made to the Director of Finance.
- C. Such applications shall be verified and provide the same information as that required for an adult live entertainment center licensed as set forth in section 5.42.040 of the Lacey Municipal Code.
- D. Applications shall be accompanied by a non refundable fee as set by resolution of the City Council, however, until such fee is set by such a resolution, the fee shall be \$500.00.
- E. An application for such a license shall be processed and either granted or denied in the manner set forth in section 5.42.040 E. and F. of the Lacey Municipal Code.
- F. Licenses granted pursuant to this chapter shall expire on December 31, of the year for which such licenses is issued or renewed.
- G. Such license may be renewed by submitting a new application and following the application procedure referenced herein; provided, that a renewal application shall not be submitted prior to September 1, for the following calendar year.

**5.40.040 Regulations relating to on-premise viewing.**

- A. Any adult arcade, adult bookstore, adult novelty store or adult video store having facilities for customers' viewing of depictions of human nudity and/or sexual conduct of any nature, including depictions of specific sexual activities, shall comply with the following regulations:
  - 1. Construction/Maintenance:
    - a. All viewing booths shall be constructed or reconstructed so that the interior of the viewing booth is observable by persons in the aisles or other open areas of the establishment such that the lower 36" of the door is open to public view.
    - b. All such areas shall be maintained in a clean and sanitary condition at all times.
  - 2. Signs:
    - a. Signs shall be conspicuously posted on the premises advising customers using viewing booths that:
      - (1) Masturbation in such booths is prohibited and unlawful.

- (2) That it is unlawful for more than one (1) customer to occupy a viewing booth at any time.
  - (3) No persons under the age of 18 years shall be allowed to occupy a viewing booth at any time.
3. Unlawful Conduct: The following conduct or activity is unlawful:
- a. Masturbation in viewing booths.
  - b. Two (2) or more customers in a viewing booth at the same time.
  - c. The use of such booths by any person under the age of 18 years.
  - d. For the owner or manager to knowingly allow the above conduct.

**5.40.050 Regulations applicable to video stores not qualifying as adult video stores.** Video stores that sell or otherwise distribute films, motion pictures, video cassettes, slides, video disks or other visual representations which are characterized by the depiction or description of specific sexual activities or specific anatomical areas, and less than 20% of their stock-in-trade or revenues comes from the rental or sale of such items shall be subject to the following regulations:

- A. All such items as are described above shall be physically segregated and closed off from other portions of the store such that these items are not visible and/or accessible from other portions of the store.
- B. No advertising for such items shall be posted or otherwise visible. Except where such items are authorized for display.
- C. Signs readable at a distance of 20 feet in both English and Spanish shall be posted at the entrance to the area where such items are displayed stating that persons under the age of eighteen (18) are not allowed access to the area where such items are displayed.

- D. The manager or attendant shall take reasonable steps to monitor the area where such items are displayed to ensure that persons under eighteen (18) years of age do not access the age-restricted area.
- E. Rental or sale of obscene material (as defined by state law) or material harmful to minors (as defined by state law) to persons under eighteen (18) years of age is prohibited.
- F. Employees of such video stores shall check identification to ensure that such items are not rented or sold to persons under the age of eighteen (18).

**5.40.060 Revocation of license.** The Director of Finance shall revoke a license issued pursuant to this chapter if the Director finds any of the following conditions to exist:

- A. The licensee has made a false statement or given false information in connection with the application for the applicable license.
- B. The licensee has violated or permitted violation of any provisions of this chapter.
- C. The licensee has been convicted of or forfeited bail to any of the crimes which would have caused the director to refuse to issue the license upon the initial or renewal application.

Appeal from either the denial of a license or the revocation of a license shall be made to the Hearings Examiner provided for in Chapter 2.40 of this code.

**5.40.070 Inspections.** An applicant for a license called for herein shall be considered to consent as a condition of receiving such license to inspection by the Chief of Police or the Director of Finance or their designees during hours when such businesses are open. The purpose of such inspection shall be to determine if the licensed premises is operated in accordance with the requirements of this chapter. It is hereby expressly declared that unannounced inspections are necessary to ensure compliance with this chapter.

**5.40.080 Hours of operation.** Businesses licensed pursuant to this chapter shall be closed between 12:30 a.m. and 8:00 a.m.

**5.40.090 Violation deemed a public nuisance.** Any activity, act or conduct contrary to the provisions of this chapter is declared to be unlawful and a public nuisance and such activity, act or conduct may be enjoined by an action brought by the City Attorney or other interested person.

**5.40.100 Violation deemed a misdemeanor.** Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor and each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which any violation is committed, continued or permitted. No person shall be deemed guilty of any violation of this chapter if acting in an investigative capacity pursuant to the request or order of the Police Chief, City Attorney or duly appointed agent of either.

Section 2. If any section, subsection, sentence or clause of this chapter, or its application to any person or circumstance, is held invalid, the remainder of this chapter or its application to other persons or circumstances shall not be affected.

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

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON,  
this 23rd day of June, 1994.

CITY COUNCIL

By Jon W. Holmson  
Mayor

Attest:

Approved as to form:

Charlotte M. Taylor  
City Clerk

[Signature]  
City Attorney

Published: June 28, 1994

SUMMARY FOR PUBLICATION  
ORDINANCE 991

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on JUNE 23, 1994, Ordinance No. 991 entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, REQUIRING LICENSING AND REGULATING THE CONDUCT OF ADULT ARCADES, BOOKSTORES, NOVELTY STORES AND VIDEO STORES AND ADDING A NEW CHAPTER, 5.40 TO THE LACEY MUNICIPAL CODE."

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

Section 1 adds a new chapter, 5.40 Adult Businesses, to the Lacey Municipal Code. Sections of that new chapter are summarized as follows:

Section 5.40.010 declares the purpose and intent of the Council in enacting the chapter to be the regulation of the conduct of sexually oriented businesses and related activities and not to be the restriction of access by adults to materials covered within the Ordinance.

Section 5.40.020 defines terms used within the chapter.

Section 5.40.030 requires the licensing of those businesses defined within the chapter as adult arcades, adult bookstores, adult novelty stores and adult video stores.

Section 5.40.040 sets regulations relating to on-premise viewing of depictions of human nudity and/or sexual conduct of any nature, including depictions of specific sexual activities.

Section 5.40.050 sets regulations which apply to video stores not coming within the terms of the adult video stores defined by the new chapter.

Section 5.40.060 provides for the revocation of licenses issued pursuant to the chapter.

Section 5.40.070 provides for inspection of such businesses to assure compliance.

Section 5.40.080 provides for hours of operation.

Section 5.40.090 declares violation of the terms of the chapter to be a public nuisance.

Section 5.40.100 declares the violation of the provisions of the chapter to be a misdemeanor.

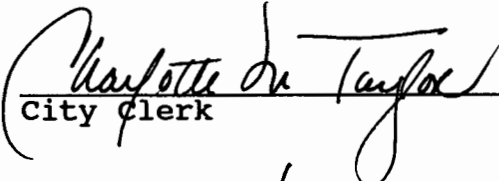
Section 2 of the Ordinance is a severability clause regarding



validity of the Ordinance.

Section 3 approves this summary for publication.

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.

  
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City Clerk

Published: June 23, 1994