

# Ordinance No. 00472

[City Council meeting minutes of March 17 2008](#)

## ORDINANCE NO. 472

AN ORDINANCE of the City Council of the City of Lakewood, Washington, establishing a system of Interim Zoning Controls Upon Eating and Drinking Establishments

WHEREAS, the City of Lakewood incorporated on February 28, 1996; and

WHEREAS, pursuant to the Washington State Growth Management Act of 1995, the City of Lakewood adopted a comprehensive plan in July of 2000, and a land use and development code (Chapter 18A of the Lakewood Municipal Code) on August 20, 2001; and,

WHEREAS, pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City may adopt an interim zoning ordinance or official control, but must conduct a public hearing within sixty (60) days after adoption of such an interim set of regulations and must support such an ordinance with findings of fact immediately after conducting such a public hearing; and,

WHEREAS, pursuant to the police power authority granted to the City of Lakewood in Article 11, Section XI, of the Washington State Constitution, the City does hereby enact interim controls upon Eating and Drinking Establishments, as such establishments are defined in the Lakewood Municipal Code, in the interest of protecting the public health, safety and welfare; and,

WHEREAS, the regulations contained herein are hereby referred to as Interim Zoning Controls Upon Eating and Drinking Establishments.

NOW, Therefore, the City Council of the City of Lakewood, Washington, do hereby ordain as follows:

Section 1. Interim Zoning Controls. The City of Lakewood City Council does hereby create Interim Zoning Controls Upon Eating and Drinking Establishments. These interim zoning controls are intended to regulate the size and/or location of eating and drinking establishments within the City as set forth in the regulations contained in this Ordinance.

Section 2. Public hearing to be set. Pursuant to state law, a public hearing shall be set within sixty (60) days of the enactment of these interim regulations.

Section 3. Expiration of interim controls. Pursuant to state law, these interim controls shall remain effective only if supported by findings of fact, which findings must be made immediately after a timely public hearing. If these interim regulations are supported as legally required, these interim controls may be effective for six months and may be extended for additional six month terms. Should the City fail to comply with the procedures set forth in state law, these interim controls shall expire.

Section 4. Interim Amendment of Lakewood Municipal Code Section 18A.20.600 (Commercial Use Category ? Land Use Types and Levels). Upon adoption of this Ordinance and while these interim controls are effective, Lakewood Municipal Code section 18A.20.600 shall be as follows:

18A.20.600 ? Commercial Use Category ? Land Use Types and Levels

The Commercial use category includes establishments, facilities, and individuals providing services and the sale, distribution or rental of goods that benefit the daily needs of the general public, which are not otherwise classified in another use category.

A. Amusement and Recreation. Establishments or places of business primarily engaged in the provision of sports, entertainment, or recreational services to the general public or members, which may or may not include Eating and Drinking Establishment Commercial use types ~~in conjunction~~, but where eating and drinking is clearly secondary to a primary Amusement and Recreation Commercial use type, and which do not otherwise constitute Sexually Oriented Business Commercial use types. Examples include video arcades; teen clubs; dance halls; athletic clubs; indoor swimming pools; billiard parlors; bowling alleys; ice or roller skating rinks; indoor and drive-in movie theaters; outdoor recreational equipment rental, including marine-related; mini-golf and indoor or outdoor driving ranges that are not located in conjunction with a golf course; enclosed sports arenas or stadiums; and amusement parks; ~~and gambling establishments or activities such as cardrooms, enhanced cardrooms ("mini-casinos???), bingo parlors, off track betting, or similar gambling activities, subject to appropriate state licensure, specifically excluding Lottery and pull tabs.~~ Such uses may include facilities or activities clearly incidental and secondary to the primary use which provide functions typical of a "pro shop" in conjunction with the primary use.

Level 1: Indoor facilities not exceeding five thousand (5,000) gross square feet and/or outdoor facilities of less than thirty-five thousand (35,000) square feet, without alcohol sales.

Level 2: Indoor facilities of between five thousand (5,000) and thirty thousand (30,000) gross square feet and/or outdoor facilities of between thirty-five thousand (35,000) and eighty-seven thousand, one hundred twenty (87,120) gross square feet (two acres), without alcohol sales.

Level 3: Indoor facilities of up to thirty thousand (30,000) gross square feet with up to five thousand (5,000) gross square feet of enclosed outdoor facilities, with or without alcohol sales.

Level 4: Indoor facilities exceeding thirty thousand (30,000) gross square feet and/or outdoor facilities exceeding five thousand (5,000) gross square feet, with or without alcohol sales.

B. Building/Garden Supply and Nurseries. Establishments primarily engaged in wholesale and retail selling of lumber, building materials, paint, glass, wallpaper, hardware, nursery stock, lawn and garden, plumbing, and electrical supplies.

Level 1: Establishments primarily engaged in retail sales. Utilization of outdoor areas for retail display and storage may occur as an

accessory use. The combination of total floor area and outdoor storage and display area is less than ten thousand (10,000) gross square feet.

Level 2: Establishments primarily engaged in retail sales. Utilization of outdoor areas for retail display or storage purposes may occur as an accessory use. The combination of total floor area and outdoor storage and display area ranges between ten thousand (10,000) and eighty thousand (80,000) gross square feet.

Level 3: Establishments primarily engaged in retail sales where the combination of total floor area and outdoor storage and display area exceeds eighty thousand (80,000) square feet.

Level 4: Establishments primarily engaged in wholesale activities, except for and as distinguished from Level 2 Agriculture uses.

C. Bulk Fuel Dealers. Establishments that sell fuels which, by their nature, are flammable, explosive, or toxic, to businesses and households for transportation, heating, and business purposes. Examples include propane gas sales, heating oil dealers, liquefied petroleum gas dealers, coal, wood, or other fuel dealers.

D. Business Services. Businesses primarily engaged in providing services to other businesses on a contract or fee basis. Examples include courier services, parcel delivery services, fax services, telegraph services, reproduction services, commercial art and photography services, stenographic services, and janitorial services.

E. Buy-Back Recycling Center. Any small-scale business without industrial activity which collects, receives or buys recyclable materials (typically recyclable consumer goods and containers) from household, commercial or industrial sources for the purpose of sorting, grading or packaging recyclables for subsequent shipment and marketing, as distinguished from Recycling Processor Industrial use types, which use heavy equipment for processing and may provide for outdoor storage of recyclable materials. Examples of commercial buy-back recycling centers include small scale glass or aluminum container and paper buy-back centers. Facilities which process vehicle parts, building materials, or industrial scrap material are classified under the Recycling Processor Industrial use type. All materials stored outdoors must be containerized.

F. Convenience Commercial. Stores which may be either primarily engaged in serving the auto-driving public or, at lesser levels, principally oriented to neighborhood pedestrian traffic, which may include any combination of gasoline sales, uses typical of Food Stores as listed herein, and same-structure collocation of limited prepared food and drink sales such as fast food or espresso; as distinguished from Food Stores Commercial use type, which does not allow gasoline sales.

Level 1: Structure of up to ten thousand (10,000) gross square feet, without gas sales.

Level 2: Structure of up to 10,000 gross square feet, with up to six (6) two-sided gas pumps.

Level 3: Structure of up to twenty thousand (20,000) gross square feet, with up to nine (9) two-sided gas pumps.

Level 4: Structure of over twenty thousand (20,000) gross square feet, with more than nine (9) two-sided gas pumps. Level 4 shall include levels 1, 2 and 3.

G. Drive-Through Facilities. Facilities which are standalone or provided in conjunction with and accessory to a collocated allowed use for the purposes of allowing a customer or patron to transact business from a motor vehicle. Examples include fast food, coffee kiosks, financial institutions or unstaffed automatic teller machines, and pharmacy prescription drop-off/pick-up. Does not include drive-through car washes or other forms of automobile service, which shall instead be treated as Motor Vehicle Service and Repair Commercial use types. Drive-Through Facilities shall not be comprised of a mobile unit such as a trailer or other vehicle with chassis which has been parked and/or converted to a permanent installation by virtue of removal of wheels or addition of blocking and skirting.

H. Eating and Drinking Establishment. Establishments that sell prepared food and/or beverages, which may include liquor, subject to appropriate state and local licensure, including health permits. Such uses may or may not include Amusement and Recreation Commercial use types in conjunction but shall be considered to constitute Eating and Drinking Establishments for the purpose of zoning only where amusement and recreation is clearly secondary to a primary Eating and Drinking Establishment Commercial use type. Does not include sexually oriented businesses serving food and/or beverages, which are instead treated as Sexually Oriented Business Commercial use types.

Size Limitations on Eating and Drinking Establishments in certain zoning districts. As necessary to balance uses within mixed use districts and districts that are intended to support residential occupancies, within the NC1, NC2 and CDB zoning districts, Eating and Drinking Establishments in these zoning districts may not exceed ten thousand (10,000) gross square feet of indoor facilities.

Level 1: Mobile vending occurring from motorized or non-motorized outdoor carts or vehicles which go from place to place selling pre-prepared or made-to-order products, where no seating is provided. Examples include lunch wagons, coffee or hot dog carts, popcorn vendors, and ice cream trucks.

Level 2: Mobile vending as described in Level 1, but occurring from a fixed, identifiable location to which the vendor returns each business day, serving pre-prepared or made-to-order products intended to be consumed off the premises. Examples include taco trucks.

Level 3: Establishments selling pre-prepared or made-to-order products intended to be consumed on the premises or which may, at the customer's option, be taken away, where a Drive-Through Facilities Commercial use type may or may not be collocated. Examples include coffee shops; juice bars; fast food, fast casual, and family style restaurants; and fine dining establishments.

Level 4: Establishments primarily involved in alcohol sales, or which include a specific bar/lounge area, serving made-to-order products intended to be consumed solely on the premises, which may, from time to time, feature entertainment such as video sports events, comedy shows, or dancing to recorded or live music, or low-intensity entertainment such as video games, pool tables, darts, television, and/or jukebox music. A Level 4 Eating and Drinking Establishment shall not be collocated with a Drive-Through Facilities Commercial use type. Examples include sports bars, restaurants with bars/lounges, taverns and brewpubs. Establishments primarily involved in alcohol sales, where pre-prepared or made-to-order food may also be available, which routinely offer entertainment such as dancing to live or recorded music, shall instead be treated as Amusement and Recreation Commercial use types. Examples include dance or karaoke bars and "nightclubs."

I. Food Stores. Stores primarily engaged in the retail sale of a variety of canned and dry foods, fresh fruits and vegetables, or meats, poultry, and fish, which may include a variety of non-food products as well. Examples include meat and fish markets, vegetable markets, retail bakeries, dairy stores, grocery stores, and specialty food and beverage stores; provided, that gasoline sales shall not be located on the same lot and as distinguished from Convenience Commercial use types.

Level 1: Floor area up to thirty thousand (30,000) gross square feet.

Level 2: Floor area between thirty thousand (30,000) and eighty thousand (80,000) gross square feet.

Level 3: Floor area over eighty thousand (80,000) gross square feet.

J. Funeral Services. Funeral facilities such as preparation and display facilities, funeral chapels, crematories, and affiliated offices.

Level 1: Mortuaries, including affiliated funeral chapels and offices.

Level 2: Crematories, subject to state air quality standards.

Level 3: Cemeteries, including affiliated mausoleums, funeral chapels, and offices.

K. Lodging. Establishments that provide transitory lodging services, subject to appropriate state and local licensure.

Level 1: Bed and breakfast, subject to the requirements of LMC 18A.70.900.

Level 2: Camping and recreational vehicle parks where a tract of land under single ownership or unified control is developed with individual sites for rent and containing roads and utilities to accommodate recreational vehicles or tent camping for vacation or other similar short stay purposes, subject to design standards set forth in LMC 18A.70.500. This use does not include the rental of recreational vehicles or manufactured home parks.

Level 3: Hotels and motels, or other transient lodging facilities not listed herein, containing a single building or a group of detached or semi-detached buildings containing guest rooms or self-contained suites, with parking provided on the site for the use of those staying in the rooms or suites, which is or are designed and used for the accommodation of transient travelers.

L. Manufactured and Modular Homes Sales. Establishments that provide for the marketing, sale, and distribution of new manufactured and modular homes.

M. Motor Vehicle Sales and Rental. Establishments or places of business engaged in the sales or leasing of motor vehicles, utility trailers, recreational and/or sporting vehicles, commercial vehicles, construction equipment, and heavy equipment subject to compliance with all applicable federal, state, and/or local licensing requirements. Service of vehicles may be permitted as an incidental, and clearly secondary, accessory use.

Level 1: New and used motor, recreational, and sporting vehicle sales and rental of up to two (2) acres in size.

Level 2: New and used motor, recreational, and sporting vehicle sales and rental of more than two (2) and up to five (5) acres in size.

Level 3: New and used motor, recreational, and sporting vehicle sales and rental of larger than five (5) acres.

Level 4: Commercial truck-trailer and heavy equipment sales and rental.

N. Motor Vehicle Service and Repair. Facilities or places where the repair and service of motor vehicles, recreational vehicles, sporting vehicles, commercial vehicles, and construction equipment occurs. Includes the sale of or refilling of personal or recreational propane tanks. Where outdoor storage is allowed, may include usable and/or scrap tire piles of up to a total of two hundred (200) tires as an accessory use.

Level 1: Minor service and repair of motor vehicles, including glass repair and replacement, truck bedliners, installation of vehicle accessories, lube/oil, tires, mufflers, brakes, and carpet/upholstery and other related services, conducted entirely within a completely enclosed building of less than two thousand (2,000) gross square feet which utilizes no outdoor storage. Specifically excludes transmission and engine rebuild shops, vehicle painting, body work or the installation and/or testing of audio or alarm systems; but may include short-term parking of customer vehicles while awaiting service.

Level 2: Car wash, subject to water recapture and treatment, and/or motor vehicle detailing services. May include short-term parking of customer vehicles while awaiting service.

Level 3: Minor service and repair of motor vehicles with up to two thousand (2,000) gross square feet of outdoor storage of vehicles under repair. Level 3 shall include Level 1 uses.

Level 4: Major service and repair of motor vehicles including transmission and engine rebuild shops; towing services; vehicle customization and fabrication; motor vehicle rebuilds; motor vehicle and vehicle trailer manufacturing/assembly; installation and/or testing of audio or alarm systems; body work and vehicle painting, subject to state air quality standards, including outdoor storage of vehicle body parts and vehicles under repair; and minor service and repair uses with more than two thousand (2,000) gross square feet of outdoor storage. Level 4 shall include Level 3 and Level 1 uses.

Level 5: Commercial vehicle fueling and/or service stations, such as truck stops, with or without convenience shopping; wash and repair services for commercial vehicles, their trailers, and recreational vehicles; and construction and heavy equipment service, repair and body work.

O. Personal Services. Businesses primarily engaged in providing services to meet individuals' periodic personal needs. Examples include

coin-operated laundries, dry cleaning drop-off/pick-up establishments, dry cleaners, beauty shops, barber shops, clothing alterations, tanning salons which do not otherwise constitute Sexually Oriented Business Commercial use types, travel agencies, payday loan establishments, photographic studios, carpet and upholstery cleaners, and personal improvement services.

Level 1: Establishments of up to two thousand, five hundred (2,500) gross square feet which do not involve outdoor storage of vehicles.

Level 2: Establishments exceeding two thousand, five hundred (2,500) gross square feet or which involve outdoor storage of vehicles.

P. Pet Sales and Services. Businesses primarily engaged in retail sales and services associated with small animals and household pets. Examples include pet stores, pet grooming shops, pet day cares, and veterinary hospitals for small animals and pets.

Level 1: Completely indoor retail and service establishments, with or without accessory kennels, of less than two thousand, five hundred (2,500) gross square feet.

Level 2: Completely indoor retail and service establishments, with or without accessory kennels, exceeding two thousand, five hundred (2,500) gross square feet.

Level 3: Retail and service establishments with outdoor sales, kennels, and/or yard area.

Level 4: Commercial kennels and catteries, subject to LMC 5.52.

Q. Private Training School. Educational services provided for profit by private organizations or individuals with the primary purpose of preparing students for jobs in a trade or a profession. Examples include commercial/vocational schools, drivers' training, beauty and barber schools, business or computer training schools, and conservatories of art, music, or drama. Facilities larger than ten thousand (10,000) gross square feet shall be regulated as a Level 2 Education Civic use type.

Level 1: Establishments of up to five thousand (5,000) gross square feet and/or which utilize up to one thousand (1,000) square feet of outdoor area for instructional purposes or for parking of vehicles or storage of materials utilized in the instructional program.

Level 2: Establishments of between five thousand (5,000) and ten thousand (10,000) gross square feet and/or which utilize more than one thousand (1,000) square feet of outdoor area for instructional purposes or for parking of vehicles or storage of materials utilized in the instructional program.

R. Professional Offices. Offices, private firms, or organizations which provide professional or administrative services to individuals or businesses. Examples include employment services, property management services, title companies, law offices, engineering/surveying consulting firms, architecture and landscape architecture firms, advertising and public relations firms, medical and dental offices, diagnostic testing services, advertising agencies, travel agencies, talent agencies, insurance offices, real estate offices, investment brokers, financial planners, banking services, administrative offices for non-profit and quasi-public agencies, and other business offices customarily associated with professional or administrative office services.

Level 1: Office building of up to ten thousand (10,000) gross square feet.

Level 2: Office building of between ten thousand (10,000) and thirty thousand (30,000) gross square feet.

Level 3: Office building exceeding thirty thousand (30,000) gross square feet.

S. Rental and Repair Services. Establishments primarily engaged in the provision of rental and repair services or closely related uses. Examples include home improvement, garden, and party equipment rental; upholstery shops; appliance repair shops; small engine and power tool rental and repair such as lawn mowers and chainsaws; vacuum cleaner repair; medical equipment rental and repair services; rental furnishings; and instrument repair services. Does not include vehicle repair or auto body, which are instead treated as Motor Vehicle Service and Repair Commercial use types.

Level 1: Rental and repair services not exceeding five thousand (5,000) gross square feet with no outdoor storage.

Level 2: Rental and repair services not exceeding five thousand (5,000) gross square feet with up to one thousand (1,000) gross square feet of outdoor storage/display of equipment.

Level 3: Rental and repair services exceeding five thousand (5,000) gross square feet of floor area with no outdoor storage/display of equipment.

Level 4: Rental and repair services exceeding five thousand (5,000) gross square feet with over one thousand (1,000) square feet of outdoor storage/display of equipment.

T. Sales of General Merchandise. Establishments that sell new general merchandise including apparel and accessories; auto parts; bookstores which do not otherwise constitute Sexually Oriented Business Commercial use types; legal pharmaceuticals; optical goods; furniture and home furnishings; and computers and electronics. Does not include establishments primarily engaged in selling lumber and other building materials, paint, glass, wallpaper, hardware, nursery stock, and lawn and garden supplies, which are instead treated as Building/Garden Supply and Nurseries Commercial use types. May include usable and/or scrap tire piles of up to a total of two hundred (200) tires as an accessory use.

Level 1: Establishments of up to five thousand (5,000) gross square feet primarily engaged in retail sales activities.

Level 2: Establishments of between five thousand (5,000) and thirty thousand (30,000) gross square feet primarily engaged in retail sales activities.

Level 3: Establishments of up to thirty thousand (30,000) gross square feet primarily engaged in retail/wholesale sales activities.

Level 4: Establishments exceeding thirty thousand (30,000) gross square feet primarily engaged in retail/wholesale sales activities.

U. Sales of Secondhand Property. Individuals or establishments that sell secondhand property. Examples include pawnbrokers; secondhand, antique, junk and/or salvage dealers; and transient traders in secondhand property, including garage sales and flea markets. This use type does not include used or pre-owned automobiles or other vehicles, which are instead treated as Motor Vehicle Sales and Rental Commercial use types, nor wrecking or parts yards, which are instead treated as Salvage/Wrecking Yards and Vehicle Storage Facilities Industrial use types.

Level 1: Antique stores; used bookstores which do not otherwise constitute Sexually Oriented Business Commercial use types; and used clothing, furniture and appliances, jewelry and valuable coins, and valuable collectibles sales.

Level 2: Surplus, military, and miscellaneous sales and flea markets. Flea markets include swap meets but does not include antique malls where stalls are leased, which are instead treated as a Level 1 use listed above. This use type does not include junk and/or salvage dealers, which are instead treated as Salvage/Wrecking Yards and Vehicle Storage Facilities Industrial use types.

Level 3: Pawnshops, subject to the provisions of LMC 5.12. Businesses which are engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits, or conditional sales of personal property; or which publicly display, at or near their place of business, any sign or symbol generally used by pawnbrokers or indicating that the business loans money on personal property on deposit or pledge.

V. Sexually Oriented Business. A business that includes as a primary use any one or more of the following: an adult entertainment facility; adult-oriented merchandise; adult retail use; panoram; or similar facility, merchandise, or entertainment as defined in LMC 18A.40.400, subject to specific standards, including siting criteria, set forth therein.

W. Storage. Businesses engaged in the storage of items for personal and business use. Business activities other than rental of storage spaces are prohibited. Does not include vehicle impound lots or wrecking yards, which are instead regulated as Salvage/Wrecking Yards and Vehicle Storage Facilities Industrial use types.

Level 1: Indoor mini-warehouse/storage facility.

Level 2: Indoor/outdoor mini-warehouse/storage facility, including the storage of motor, recreational, and sporting vehicles not otherwise regulated as a Level 1 Salvage/Vehicle Storage Facilities Industrial use type.

Level 3: Outdoor storage, including the storage of shipping containers, which is not accessory to a primary permitted use on the site, including the storage of motor, recreational, and sporting vehicles not otherwise regulated as a Level 1 Salvage/Vehicle Storage Facilities Industrial use type.

Section 5. Severability. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 6. Effective Date. That this Ordinance and the zoning controls and provisions provided for herein shall be in full force and effect upon passage and signatures hereon.

PASSED by the City Council this 17th day of March, 2008.

City of Lakewood

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Douglas G. Richardson, Mayor

ATTEST:

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Alice M. Bush, MMC, City Clerk

Approved as to form:

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Heidi Ann Wachter, City Attorney