

REVISED ORDINANCE NO. 678

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Title 18A, the Land Use and Development Code, to broaden the definition of “flea market” to include both new and used items.

WHEREAS, on or about September 23, 2016, Plaintiff Star Lite Garage Sale and Swap Meet (through Hank Bardon), commenced an action in the Superior Court of the State of Washington in and for Pierce County, captioned Complaint for Injunctive Relief, under cause No. 16-2-11339-2 against the City of Lakewood (hereinafter “Complaint” or “Lawsuit”); and

WHEREAS, on or about September, 2016, and over objection of the City of Lakewood, the Pierce County Superior Court entered a Temporary Restraining Order against the City of Lakewood regarding enforcement of certain provisions of the City’s business licensing code; and

WHEREAS, on or about November 21, 2016, the following individuals filed a document captioned Third Party Complaint for Declaratory and Injunctive Relief and Damages and Attorneys Fees against the City of Lakewood, also under Pierce County Cause No. 16-2-11339-2: Dennis Eros, Hubert Young, Victor Lopez, Willbert Illig, Carl Ritmanich, Soo Oh, Jae Park, John Seidl, Gary Wagner, Louis Fontenot, and Ted Bell; and

WHEREAS, the Lawsuit makes various claims and claims for relief against the City of Lakewood, including but not limited to allegations that parts of the City’s business licensing code and regulations are excessive or unduly oppressive or that the City improperly enforces certain regulations and interferes with their business operations; and

WHEREAS, the City of Lakewood denies all responsibility or liability for the claims, damages and actions claimed by Plaintiffs and Intervenors in the Lawsuit, and denies all claims for relief, whether equitable or legal, and all claims for damages, attorneys’ fees and costs; and

WHEREAS, Plaintiffs and the City have engaged in settlement discussions, which discussions have resulted in a settlement proposal which is acceptable to City staff, but which must go through a defined and required approval process and must be considered and approved by the Lakewood City Council following an open public meeting, and the ultimate decision by the Lakewood City Council whether to approve or disapprove of the proposed legislative changes is a discretionary legislative act without assurances of approval or other action; and

WHEREAS, the City finds that minor changes to the City’s code are necessary to better implement the purpose of the code.

WHEREAS, the City initiated a text amendment application to Title 18A Lakewood Municipal Code, Case Nos LU-17-00256 (text amendment), and LU-17-00257 (SEPA); and

WHEREAS, on January 18, 2018, the Lakewood Planning Commission conducted a public hearing on proposed zoning text amendments; and

WHEREAS, no one spoke in favor or in opposition to the amendments; and

WHEREAS, on February 7, 2018, the Lakewood Planning Commission recommended approval to the Lakewood City Council the proposed zoning text amendments by adoption of Planning Commission Resolution No. 2018-01, herein incorporated by this reference; and

WHEREAS, on March 5, 2018, the Lakewood City Council conducted a public hearing on the proposed zoning text amendments.

WHEREAS, on March 19, 2018, the Lakewood City Council considered Applications LU-17-00256 (text amendment), and LU-17-00257 (SEPA) at its regular meeting.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON HEREBY ORDAINS, Title 18A Lakewood Municipal Code shall be amended as follows:

Section 1. 18A.30.530 Primary Permitted Uses – Commercial Zoning Districts.

The following uses are permitted within the Commercial zoning districts, subject to approval of a zoning certification and all applicable development permits:

B. CBD Zoning District.

38. Sales of New and Secondhand Property (Level 1/2)

C. C1 Zoning District.

36. Sales of New and Secondhand Property (Level 1/2/3)

D. C2 Zoning District.

37. Sales of New and Secondhand Property (Level 1/2/3)

Section 2. 18A.30.550 Conditional Uses - Commercial Zoning Districts.

The following uses are permitted within the Commercial zoning districts, subject to approval of a conditional use permit and all applicable development permits:

B. CBD Zoning District.

14. Sales of New and Secondhand Property (Level 3)

Section 3. 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.

U. Sales of New and Secondhand Property. Individuals or establishments that sell new and 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.

Section 4. 18A.90.200 Definitions.

In addition to the definitions under Section 18A.90.200, the definitions in Section 14A.165.010 LMC shall apply.

FLEA MARKET. Arrangements whereby a person or persons sell, lease, rent, offer or donate to one (1) or more persons a place or area where such persons may offer or display new, secondhand or junk items.

Section 5. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance

Section 6. Effective Date. This ordinance shall take place thirty (30) days after its publication or publication of a summary of its intent and contents.

ADOPTED by the Lakewood City Council this 19th day of March, 2018.

CITY OF LAKEWOOD



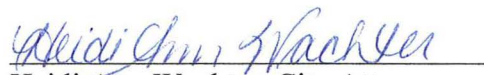
Don Anderson, Mayor

Attest:



Alice M. Bush, MMC, City Clerk

Approved as to Form:



Heidi Ann Wachter, City Attorney