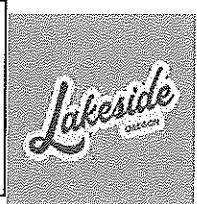


PUBLIC NOTICE
CITY COUNCIL SPECIAL MEETING AMENDED AGENDA
TUESDAY APRIL 23, 2024 @ 6:00 pm.
CITY COUNCIL CHAMBERS, 915 NORTH LAKE ROAD,
LAKESIDE, OR.



"The Mission of the City of Lakeside is to serve the citizens of our community with responsibility, transparency, integrity, and dedication".

Zoom call in information: Meeting ID: 444-313-9923 Numeric Password: 611328
Regular phone users should dial into zoom at 408-638-0968

- 1 Call to Order- This special council meeting has been called to set an evaluation criterion for the city manager and provide a discussion on code enforcement.
2. Pledge of Allegiance
3. Roll Call
4. Tabled Item from April Council Meeting: Request from the Lakeside Business Owners Association for Funding of 2024 Special Events
5. **RESOLUTION 2024-01 A Resolution of the Mayor and Lakeside City Council to authorize expenditure of funds requested by the Lakeside Business Owners Association in supporting special events to promote the City of Lakeside and business activities from funds received through the state authorized Transient Lodging Tax**
6. Develop criteria and an evaluation review form to be used to review the performance of the city manager.
7. Determine how and when we will review the city manager's performance.
8. Discussion on changes to the present code enforcement ordinances.

This will be a discussion about what code enforcement in the city of Lakeside is, how code enforcement was done in the past and our present situation. Followed by a review of the proposed changes.
9. Provide additional directions to the city manager on code enforcement.
10. Adjourn- Next meeting; May 9, 2024

The above meeting is open to the public. The Lakeside City Hall is handicapped-accessible. Lakeside is an Affirmative Action/Equal Opportunity Employer and complies with Section 804 of the Rehabilitation Act of 1973. All City Council Meetings are recorded and kept on audio media.

City of Lakeside

RESOLUTION 2024-01

A RESOLUTION OF THE MAYOR AND LAKESIDE CITY COUNCIL TO AUTHORIZE EXPENDITURE OF FUNDS REQUESTED BY THE LAKESIDE BUSINESS OWNERS ASSOCIATION IN SUPPORTING SPECIAL EVENTS TO PROMOTE THE CITY OF LAKESIDE AND BUSINESS ACTIVITIES FROM FUNDS RECEIVED THROUGH THE STATE AUTHORIZED TRANSIENT LODGING TAX

WHEREAS, the City Council of Lakeside receives Transient Lodging Tax (TLT) Revenue from lodging businesses within the City of Lakeside, and

WHEREAS, the state authorized program requires a limited portion of these funds be expended for local promotion and marketing,

WHEREAS, the City budgets and funds tens of thousands of dollars from the TLT revenues for the promoting of Lakeside on an annual basis for the acquisition of significant fireworks, and

WHEREAS, funds above and beyond the required expenditures by the state are available for city expenditures as deemed appropriate through the City of Lakeside budget process and by City Council designation and action, and

WHEREAS, the City of Lakeside City Council would like to support the local economy through special tourist promotion events sponsored and led by various organizations including but not limited to business organizations and non-profits within the community.

WHEREAS, the Experience Lakeside 2024, the July 4th celebration, the Lakeside Vintage Festival 2024 and the Million Lights of Lakeside 2024 are tourist promotion events hosted by the Lakeside Business Owners Association;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKESIDE, OREGON AS FOLLOWS:

1. Authorize the expenditure of \$4,380 of TLT funds for the Experience Lakeside 2024 event to the Lakeside Business Owners Association upon receipt of complete budget for this event, and
2. Authorize the expenditure of \$1,700 of TLT funds for the 4th of July 2024 event to the Lakeside Business Owners Association upon receipt of complete budget of this event and finance report from the Experience Lakeside 2024 event, and

3. Authorize the expenditure of \$1,700 of TLT funds for the Lakeside Vintage Festival 2024 event to the Lakeside Business Owners Association upon receipt of complete budget of this event and finance report from the 4th of July event, and

4. Authorize the expenditure of \$ 2,160 of TLT funds for the Million Lights of Lakeside 2024 event to the Lakeside Business Owners Association upon receipt of complete budget of this event and finance report from the Lakeside Vintage Festival 2024 event with an agreement of receiving the finance report for the Million Lights of Lakeside event within 30 days after the event.

The foregoing Resolution is adopted this 23rd day of April 2024 by a vote of

_____.

Attest: _____
Rick Hohnbaum, Recorder/Manager

By: _____
Mark Crouch, Mayor

DRAFT

MEMORANDUM

To: Rick Hohnboun, City Manager
From: Gary Darnielle, City Attorney
Date: April 15, 2024
Re: Lakeside's Transient Lodging Tax

Question

What are the limitations on Lakeside's use of its Transient Lodging Tax revenues?

Background

The Transient Lodging Tax is a tax permitted by the State on temporary lodging at hotels, motels, campgrounds, and other temporary lodging. Lakeside first implemented this tax in 1993 with the passage of Ordinance 155A. This ordinance authorized a tax of five (5) percent on the rent charged by lodging facilities. At this time, there were no specific state instructions regarding how the revenue must be spent.

In 2000, the City Council raised the tax to six (6) percent and required that one-sixth of the amount raised would be designated for the Promotion Committee of the Chamber of Commerce for distribution.

In 2003, the Oregon Legislature passed Chapter 818 Oregon Laws 2003 (HB 2267) This bill required that as of July 2, 2003, any new or modified portion of an existing transient lodging tax must be spent 70 percent on tourist promotion or tourism-related facilities and 30 percent on city or county services. On May 27, 2003, the Lakeside City Council passed Ordinance 03-241, which raised the city's transient lodging tax to seven and one-half (7.5) percent. Unfortunately, this ordinance lacked an ordaining clause (as required by ORS 221.912 and Section 33 of the Lakeside Charter) and therefore was invalid. It therefore could not legally increase the tax.¹

On October 13, 2015, the City Council codified its ordinances with the adoption of Ordinance 15-285. The codification posthumously ordained Ordinance 03-241 and incorporated its seven and one-half (7.5) percent tax rate into Section 33.03(A) of the Lakeside Municipal Code.

Answer

The Lakeside transient lodging tax is currently at 7.5 percent. The first six percent, because it was enacted prior to July 2, 2003, can be used for any purpose deemed appropriate by the City Council. By ordinance, one-sixth of this amount must go to the Chamber of Commerce.

The revenue from the one and one-half percent of the tax must be divided up on a 70/30 basis: seventy percent going towards tourist promotion and tourist-related facilities and the remainder on general city services. As far as I can tell, the City has no structures that would qualify as being

¹ Nevertheless, the tax was collected until 2015. The facilities that paid the increase in the tax between 2003 and 2015 were eligible for a refund of the unauthorized one and one-half percent.

a tourist-related facility. The term "tourist promotion" is defined by statute (ORS 320.300(7)) and includes advertising and publicizing tourist-related information, strategic planning and research to stimulate tourism, operating tourism promotion agencies, and marketing special events and festivals designed to attract tourists. Of these definitions, the term "marketing" is the most subjective although, by definition, it is something more than advertising and publicizing. I believe that the term must be given a broad reading that focuses on anything that would promote tourism. Thus, it should include holding and supporting special events, including providing the infrastructure necessary for those events to happen. An annual fireworks display, for instance, would qualify.

It should be noted that the nature of the statute authorizing the collection of a transient lodging tax has potentially tricky auditing implications. For that reason I recommend the following:

1. At the time transient lodging tax revenue is received, it should be placed into appropriate budgetary categories so that it is clear that at least fourteen (14) percent of the tax revenue goes towards tourist promotion.²
2. When the Council is approving transient lodging tax revenue for an event, such as a festival, a parade, fireworks, etc., and the intent is that the event is to encourage tourism, that the Council pass a resolution that states that the purpose of the funding is to support tourism in the City. This would clarify that the Council's intended use of the funds is consistent with the transient lodging tax statute and make the auditor happy.

² One and one-half percent is twenty (20) percent of the entire tax. Seventy percent of twenty percent is fourteen percent.

Experience Lakeside 2024	QTY	EACH	TOTAL
Portable Potties	6	150	900
Hand Wash Stations	3	100	300
Potty cleaning	6	30	180
Advertising	TBD	TBD	1000
Promotions	TBD	TBD	2000
Event Total from TLT			4380
4th of July 2024	QTY	EACH	TOTAL
Portable Potties	6	150	900
Hand Wash Stations	3	100	300
Potty cleaning	0	0	0
Advertising	TBD	TBD	500
Promotions	0	0	0
Event Total from TLT			1700
Lakeside Vintage Festival 2024	QTY	EACH	TOTAL
Portable Potties	6	150	900
Hand Wash Stations	3	100	300
Potty cleaning	0	0	0
Advertising	TBD	TBD	500
Promotions	0	0	0
Event Total from TLT			1700
Million Lights of Lakeside 2024	QTY	EACH	TOTAL
Portable Potties	2	150	300
Hand Wash Stations	1	100	100
Potty cleaning	2	30	60
Advertising	TBD	TBD	1000
Promotions	TBD	TBD	700
Event Total from TLT			2160

Rick,

I am sending two copies of the ordinance; one in legislative format so that the Council can see what is changed and a clean copy. The ordinance also repeals Ordinances 20–292 and 20–295. The first ordinance creates the procedures for the municipal court and the other was intended to amend Chapter 93 in the Code. Since we are not using the Court and the new ordinance replaces the use of the Court in 20–295 we don't need them.

Also, while I changed the penalty provision in Chapter 155 (Zoning) to reference the use of the new nuisance provisions I didn't make a similar change to Ordinance 95–194, which is the subdivision ordinance. Section 8.400 of that ordinance calls for possible imprisonment for violation and I think we should also amend that part of the ordinance to reference the nuisance provisions. Let me know and I can add that change to the draft.

Gary

ORDINANCE 24-__

AN ORDINANCE AMENDING CHAPTERS 93 AND 155 OF THE LAKESIDE MUNICIPAL CODE AND REPEALING ORDINANCES 20-292 AND 20-295

WHEREAS, Chapter 93 of the Lakeside Municipal Code (LMC) concerns nuisances; and

WHEREAS, the City Council finds that appeals of administrative enforcement of Chapter 93 should be within the jurisdiction of the Lakeside Hearings Official.

NOW THEREFORE, THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

Section 1. Ordinances 20-292 and 20-295 are repealed.

Section 2. Section 93.01(A) of the Lakeside Municipal Code shall be repealed and replaced with the following:

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE CIVIL PENALTY. A financial penalty imposed for a code violation.

DISMANTLED. Inoperative without the addition or application of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs.

ENFORCING OFFICER. The person authorized by the City Recorder/Manager to enforce nuisance abatement provisions. This shall include, but not be limited to, any compliance officer, police officer, building official, and Fire Marshal.

HEARINGS OFFICIAL. An individual designated by the City Council to hear the appeal of administrative civil penalties imposed by the City Recorder/Manager for violations of the city nuisance code (Chapter 93 LMC), the city subdivision regulations (Chapter 154 LMC), and the city zoning regulations (Chapter 155 LMC). The Hearings Official shall be funded by contract with the City.

NEGLECTED OR DISCARDED VEHICLE. A vehicle, motorcycle or all-terrain vehicle (ATV) that is or appears to be inoperative, wrecked, dismantled or partially dismantled. It also means unassembled or partially assembled vehicle parts, including, but not limited to, tires, batteries, engines, transmissions, vehicle bodies and frames.

NOISE SENSITIVE UNIT. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to, individual residential units, individual apartments, trailers, hospitals and nursing homes.

NUISANCE. An unlawful act, an omission to perform a duty, or suffering or permitting any condition or thing to be or exist, which either:

- (a) Injures or endangers the welfare, health or safety of others;
- (b) Offends decency;
- (c) Creates offensive odors;
- (d) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

OBNOXIOUS VEGETATION.

- (a) Includes:
 - 1. Weeds, grass or legumes above the height of ten inches. It does not include decorative grasses;
 - 2. Poison Oak or Poison Ivy and Scotch broom;
 - 3. Vegetation or blackberry vines or bushes that are a fire hazard because they are near combustibles; extend into a public way; or are used for habitation of trespassers; and
 - 4. Vegetation which is a vision obstruction.

(b) **OBNOXIOUS VEGETATION** does not include vegetation that constitutes agricultural crops, unless the vegetation is a health hazard, fire hazard or traffic hazard within the meaning of this chapter. It does not include natural areas of vegetation designated in their natural state that do not constitute a fire hazard as determined by the Fire Chief.

PERSON. A natural person, firm, partnership, association or corporation.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The person responsible for abating a nuisance means any and all of the following:

- (a) The owner of the property or a building or property where a violation or failure to comply has occurred;
- (b) The person in charge of the building or property, as defined in this section, where a violation or failure to comply has occurred;
- (c) The person who caused to come into or continue in existence a nuisance, as defined in the ordinance codified in this chapter or any other ordinance of this city, including: the violator or the person, or parent or legal guardian of a person, failing to comply with the ordinance, and where such person works for a contractor, either as an employee, subcontractor, or independent contractor, the contractor and/or other employer; and any licensee, permittee, or

agent, manager, or person in charge. When a building is owned by an entity that is registered with the Oregon Secretary of State, that entity's registered agent is deemed a responsible person.

PLAINLY AUDIBLE SOUND. Any sound that is clearly distinguishable from other sounds, such as, but not limited to, sound for which the information content of that sound is unambiguously communicated to the listener, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensive musical rhythms.

PROPERTY OWNER. The record owner of real property, as listed on the current Coos County Assessor's records.

PUBLIC PLACE. A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or mice; this applies to, but is not limited in application to, any building or other structure or part thereof which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

RODENT-PROOF. Any building, structure or part thereof is rodent-proof when it is constructed of concrete; metal or some equally impermeable material and in a manner that excludes rats and mice therefrom.

SOUND-PRODUCING DEVICE. Includes but is not limited to:

- (a) Loudspeakers, public address systems;
- (b) Radios, tape recorders and/or tape players, phonographs, television sets, mobile musical devices such as iPods, stereo systems, including those installed in a vehicle;
- (c) Musical instruments, amplified or unamplified;
- (d) Sirens, bells or steam whistles attached to a stationary device;
- (e) Vehicle engines or exhausts discharging into open air, when the vehicle is not on a public right-of-way, particularly when the engine is operated above idling speed;
- (f) Vehicle tires, when caused to squeal by excessive speed or acceleration;
- (g) Domestic tools, including electric drills, chainsaws, lawnmowers, leaf blowers, electric saws, hammers and similar tools, but only between 10:00 p.m. and 7:00 a.m. the following day; or
- (h) Heat pumps, air conditioning units and refrigeration units, including those mounted on vehicles.

VEHICLE. A device in or by which a person or property is or may be transported or drawn upon a public highway, excluding a device moved by human power or used exclusively upon station rails or tracks, and including, but not limited to, a vehicle body, engine, transmission, frame or other major part. Includes automobiles, motorcycles, motorbikes, trucks, buses and snowmobiles.

(B) The nuisances described in this chapter are considered to be nuisances affecting the public and shall be abate pursuant to §§ 93.02 through 93.12. In addition to the abatement costs,

which may be charged against the property as described herein, persons responsible may also be charged with an offense or a fine.

UNOCCUPIED OR UNSECURED BUILDING. A building or structure that is not being used for lawful occupancy and/or lack of secure means of ingress and egress, thus allowing for occupancy or use of a building or structure by unauthorized persons.

Section 3. Section 93.06 of the Lakeside Municipal Code shall be repealed and replaced with the following:

§93.06 ***NON-ENUMERATED NUISANCES***

The acts, conditions or objects specifically enumerated and defined in §§93.02 through 93.05, and violations of Chapters 154 and 155 of the Lakeside Municipal Code, are declared public nuisances and may be abated by the procedures set forth in §§93.07 through 93.12. In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter.

Section 4. Section 93.07(B) of the Lakeside Municipal Code shall be repealed and replaced with the following:

(B) *Appeal procedure.*

(1) Within ten (10) days after the posting and mailing of notice as provided by §93.07(A), the person responsible shall abate the nuisance or show that no nuisance exists.

(2) A person responsible, protesting that no nuisance exists, shall file a written appeal with the City Recorder/Manager. The City Recorder/Manager shall forward the appeal to the Municipal Court.

(3) Appeals to an order to abate shall be heard by the Lakeside Hearings Official. The Hearings Official shall conduct a hearing on the appeal within 45 days of the filing of the appeal. Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply.

(4) The city must prove the existence of the nuisance by a preponderance of the evidence. The hearing shall be limited to admissible evidence. The Hearings Official shall prescribe the procedures for the conduct of the hearing.

(5) The Hearings Official has the authority to administer oaths and take testimony of witnesses.

(6) The person alleged to be responsible for the nuisance shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on his or her behalf, but cannot be compelled to do so.

(7) After due consideration of the evidence and arguments, the Hearings Official shall determine whether a nuisance has been established. If the nuisance has not been established, an order dismissing the same shall be entered. When the determination is that the nuisance has been established, an appropriate order shall be entered into the records. In addition to the levying of a fine, if the city so requests, the Hearings Official may order the nuisance abated by the city, the cost of such abatement to be recovered through a lien against the property. A copy of the order shall be delivered to the person named in the order personally or by mail or to their attorney of record.

(8) The determination by the Hearings Official shall be in writing and shall contain findings of fact and conclusions of law. The determination shall be issued within 30 days of the hearing and shall be final. The Hearings Official's decision may be appealed to the Circuit Court with proper jurisdiction through the writ of review process.

(9) A tape recording shall be made of the hearing, which tape shall be retained for at least 90 days following the Hearings Official's final judgment.

Section 5. Section 93.08 of the Lakeside Municipal Code is repealed and replaced with the following:

§93.08 ORDER TO COMPLY.

(A) Upon determination by the City Recorder/Manager that a nuisance exists, the City Recorder/Manager or designee may issue an Order to Comply to a responsible person. Each and every day a failure to comply exists after the date specified in the Order to Comply shall constitute a separate failure to comply.

(B) An Order to Comply shall contain the following information:

(1) A description of the real property, by street address or otherwise, on which the nuisance exists;

(2) The name of the property's record owner;

(3) A description of the nuisance and the property condition that violates applicable code sections;

(4) A list of necessary corrections to bring the property into compliance;

(5) A deadline or specific date to correct the Order to Comply and the penalties that will be accruing on a daily basis if not remedied by that date;

(6) A statement that if the nuisance is not removed the city may abate the nuisance and the cost of abatement will be charged to the person responsible;

(7) Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: issuance of a Notice of Failure to Comply, civil injunction, administrative abatement, administrative civil penalties, revocation of permits, recording of a lien on the property, and withholding of future permits.

C. Notice. The Notice of the Order to Comply shall be posted on the premises or at the site of the nuisance and the city administrator shall cause a copy of the Order to be forwarded by registered or certified mail, postage prepaid, to the property owner, at the address shown on the current Coos County assessment records, and on the responsible person, if not the property owner, by personal service; regular and certified mail, return receipt requested; or where the responsible person cannot be located, by posting a sign in a prominent location on the property where the nuisance occurs.

Section 6. Section 93.09 of the Lakeside Municipal Code shall be repealed and replaced with the following:

§93.09 NOTICE OF FAILURE TO COMPLY.

A. Where a responsible person fails to remedy an alleged violation within the time provided in an Order to Comply, the city manager or designee may issue a Notice of Failure to Comply to each person to whom the Order to Comply was issued. A Notice of Failure to Comply shall include the information required by LMC 93.08.B as well as a brief description of the procedure to appeal the Notice of Failure to Comply, including time limitations.

B. Notice. Notice of the Order of Failure to Comply shall be served as provided in LMC 93.08.C.

C. Notwithstanding LMC 93.08 above, the City Recorder/Manager or designee may issue a Notice of Failure to Comply without having issued an Order to Comply where the City Recorder/Manager or designee determines that the failure to comply reasonably appears to:

- (1) pose an immediate threat to public health, safety or welfare, or
- (2) be immediately remediable by a person in charge of the property, or
- (3) be the same act or condition that served as the basis for a previous order to comply, or
- (4) be done deliberately by a responsible person who had knowledge that the actions in question would constitute a failure to comply.

Section 7. Section 93.10 of the Lakeside Municipal Code shall be repealed and replaced with the following:

If the person responsible has not abated the nuisance within the time allowed, the City Recorder/Manager may cause the nuisance to be abated.

(A) The officer charged with abatement of the nuisance shall only have the right to enter into or upon the property with the owner's permission or in accordance with the law. If the owner refuses, the officer may not enter a dwelling or abate a nuisance not affecting public health or safety until a warrant has been issued by a Circuit Court Judge allowing entry. Where a nuisance affecting public health or safety has been found to exist, the officer may enter the property to abate the nuisance in accordance with this section.

(B) The City Recorder/Manager shall keep an accurate record of the expense incurred by the city in physically abating the nuisance, and shall include a charge of \$150 or 15% of those expenses, whichever is greater, for administrative overhead.

Section 8. Section 93.11 of the Lakeside Municipal Code shall be repealed and replaced with the following:

The City Recorder/Manager, or his or her designee, shall forward to the owner and the person responsible, registered or certified mail, a notice stating:

(A) The total cost of abatement, including the administrative overhead;

(B) The cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

(C) That the cost of abatement will be temporarily entered in the city's lien docket;

(D) That if that person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Recorder/Manager not more than ten (10) days from the date of the notice. If an objection is received on or before the expiration of ten (10) days after the notice was served, the City Recorder/Manager shall consider the objection and make a final determination regarding the cost to be assessed. The final determination may be appealed to the Hearings Official.

(E) Final abatement costs shall be entered as a lien in the docket of the city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance/violation was removed or abated. The lien shall be enforced and shall bear interest at the statutory rate. The interest shall commence to run from the date of the entry of the lien in the lien docket. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Section 9. Section 93.99 of the Lakeside Municipal Code shall be repealed and replaced with the following:

93.99 Determination of Monetary Penalty

The amount of the monetary penalty to be assessed under LMC 93.09 above shall be determined in accordance with the following formula, as described herein.

A. The dollar amount of the assessment is calculated by multiplying the amount of the BASE (LMC 93.99.A.1) by the MULTIPLIER (LMC 93.99.A.2) and multiplying that by twenty (\$20). Notwithstanding this formula, the maximum assessment for a violation for a single day shall be two thousand dollars (\$2,000) except as provided for cases involving commercial gain in Section 8.05.165.B.

1. The BASE is the sum of "H" plus "P" plus "R" plus "C" plus "E" where:
 - (a) "H" is the history of the person responsible taking all feasible steps or procedures necessary or appropriate to correct the failure to comply. The value of "H" shall be:
 - (1) Zero (0), if the person responsible has taken a major, active role in attempting to resolve the failure to comply. There must have been a physical effort that resulted in significant improvement. Verbal communication is not sufficient by itself, but it may be considered a part of the necessary effort.
 - (2) One (1), if the person responsible has made minor efforts to correct the failure to comply, but not significant improvement resulted. Verbal communication is not sufficient by itself, but it may be considered a part of the necessary effort.
 - (3) Four (4,) if the person responsible took little or no action whatsoever. This includes verbal contact or assurances that the problem will be resolved, but with no noticeable physical effort to correct the failure to comply.
 - (b) "P" is the number of prior failures to comply or violations of the code provision upon which the current failure to comply is based. This number is based on prior similar complains verified as valid, whether or not further enforcement action occurred. The value of "P" shall be:
 - (1) One (1), if the present failure to comply is the first failure to comply within the past three (3) years.
 - (2) Two (2), if the present failure to comply is the second failure to comply within the past three (3) years.
 - (3) Four (4), if the present failure to comply is the third or subsequent failure to comply within the past three (3) years.
 - (c) "R" is the nature of the occurrence, considering whether it was repeated or continuous as opposed to a single occurrence. The value of "R" shall be:
 - (1) One (1), if the failure to comply was a one (1) time occurrence.
 - (2) Two (2), if the failure to comply was repeated or continuous in nature.
 - (d) "C" is whether the cause of the failure to comply was an inadvertent, negligent, or a reckless or intentional act. The value of "C" shall be:
 - (1) One (1), if the failure to comply was unavoidable accident or caused by others. This category is used when the monetary penalty is assessed either (a) against a person who is responsible for the property, such as an owner, but who was not physically in charge of the property when the failure to comply occurred;

or (b) against someone who did cause the failure to comply but could not have reasonably foreseen that the failure to comply would occur.

(2) Two (2), if the failure to comply was caused by a person responsible's negligence. Negligence is the failure to exercise the care that a prudent person would exercise under the circumstances. This category is used where someone either caused the failure to comply by carelessness or was negligent in taking the necessary corrective steps within the allowed time-period.

(3) Four (4), if the failure to comply was due to reckless or intentional acts. A reckless act is marked by a lack of proper caution, or carelessness or consequences. An intentional act is an act done by intention or design.

(e) "E" is the person responsible's cooperativeness and efforts directed toward correcting the failure to comply. The value of "E" shall be:

(1) Zero (0), if the person responsible was cooperative resulting in the need for minimal enforcement effort on the part of the enforcement officer.

(2) Two (2), if the person responsible was not cooperative.

2. The MULTIPLIER is the product of "A" multiplied by "G" where:

(a) "A" is the number of prior enforcement actions taken against the person responsible by the city, whether at this property or another, and whether for this type of failure to comply or another. The value of "A" shall be:

(1) One (1), if this failure to comply is the first enforcement action taken against this person in the last five (5) years.

(2) Two (2), if there has been one (1) prior enforcement action taken against this person within the past five (5) years.

(3) Three (3), if this failure to comply is at least the third enforcement action taken against this responsible person within the past five (5) years.

(b) "G" is the immediacy and magnitude of the failure to comply. This factor is evaluated at the time compliance efforts have been initiated. The value of this factor does not decrease if, after enforcement action is initiated, city efforts reduce the gravity of the occurrence or the person responsible makes corrections only at the insistence of the city. The value of "G" shall be:

(1) One (1), for a failure to comply that is not an immediate threat to health, safety or the general welfare and has only minor potential consequences. These situations pose non-immediate threats to lives or property such that the failure to comply can be tolerated while corrective action is taken.

(2) Two (2), for a failure to comply that is significant, but does not pose an immediate threat to health, safety or the general welfare. These occurrences pose significant potential consequences, though the threat is not immediate. These situations can be tolerated for a limited period of time with interim measures taken to minimize the threat.

(3) Three (3), for a failure to comply that is substantial and poses an immediate threat to health, safety or the general welfare. These situations pose immediate threats to lives such that the threat cannot be tolerated. Action must be taken immediately to prevent occupancy of the premises or to remove the hazard.

B. In cases involving commercial gain, the dollar amount of the assessment calculated using the formula in LMC 93.99 above shall be multiplied by a factor of three (3) provided that the maximum assessment for a failure to comply of a single day for a case involving commercial gain shall be two thousand five hundred dollars (\$2,500).

C. Each day's violation of a provision of this chapter constitutes a separate violation.

Section 10. Section 155.022 of the Lakeside Municipal Code is repealed and replaced with the following:

§§ 155.022 VIOLATION AND PENALTIES

Violation of this chapter shall be deemed a nuisance and subject to penalties determined by Section 93.99 of the Lakeside Municipal Code.

Section 11. Severability. The provisions of this ordinance are severable. If a section, a sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 12. Effective Date. This Ordinance will become effective 30 days after its passage by the City Council and approval by the Mayor.

PASSED BY THE LAKESIDE CITY COUNCIL THIS _____, 2024.

Ayes: _____

Nays: _____

ATTESTED:

APPROVED:

Richard Hohnbaum, City Recorder/Manager

Mark Crouch, Mayor

ORDINANCE 24-____

AN ORDINANCE AMENDING CHAPTERS 93 AND 155 OF THE LAKESIDE MUNICIPAL CODE AND REPEALING ORDINANCES 20-292 AND 20-295

WHEREAS, Chapter 93 of the Lakeside Municipal Code (LMC) concerns nuisances; and

WHEREAS, the City Council finds that appeals of administrative enforcement of Chapter 93 should be within the jurisdiction of the Lakeside Hearings Official.

NOW THEREFORE, THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

Section 1. Ordinances 20-292 and 20-295 are repealed.

Section 2. Section 93.01(A) of the Lakeside Municipal Code shall be repealed and replaced with the following:

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATIVE CIVIL PENALTY. *A financial penalty imposed for a code violation.*

DISMANTLED. Inoperative without the addition or application of vital parts or mechanisms and the application of a substantial amount of labor to effect repairs.

ENFORCING OFFICER. The person authorized by the City Recorder/Manager to enforce nuisance abatement provisions. This shall include, but not be limited to, any compliance officer, police officer, *building official*, and Fire Marshal.

HEARINGS OFFICIAL. *An individual designated by the City Council to hear the appeal of administrative civil penalties imposed by the City Recorder/Manager for violations of the city nuisance code (Chapter 93 LMC), the city subdivision regulations (Chapter 154 LMC), and the city zoning regulations (Chapter 155 LMC). The Hearings Official shall be funded by contract with the City.*

NEGLECTED OR DISCARDED VEHICLE. A vehicle, motorcycle or all-terrain vehicle (ATV) that is or appears to be inoperative, wrecked, dismantled or partially dismantled. It also means unassembled or partially assembled vehicle parts, including, but not limited to, tires, batteries, engines, transmissions, vehicle bodies and frames.

NOISE SENSITIVE UNIT. Any building or portion thereof, vehicle, boat or other structure adapted or used for the overnight accommodation of persons, including, but not limited to, individual residential units, individual apartments, trailers, hospitals and nursing homes.

NUISANCE. An unlawful act, an omission to perform a duty, or suffering or permitting any condition or thing to be or exist, which either:

- (a) Injures or endangers the welfare, health or safety of others;
- (b) Offends decency;
- (c) Creates offensive odors;
- (d) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

OBNOXIOUS VEGETATION.

- (a) Includes:
 - 1. Weeds, grass or legumes above the height of ten inches. It does not include decorative grasses;
 - 2. Poison Oak or Poison Ivy and Scotch broom;
 - 3. Vegetation or blackberry vines or bushes that are a fire hazard because they are near combustibles; extend into a public way; or are used for habitation of trespassers; and
 - 4. Vegetation which is a vision obstruction.

(b) **OBNOXIOUS VEGETATION** does not include vegetation that constitutes agricultural crops, unless the vegetation is a health hazard, fire hazard or traffic hazard within the meaning of this chapter. It does not include natural areas of vegetation designated in their natural state that do not constitute a fire hazard as determined by the Fire Chief.

PERSON. A natural person, firm, partnership, association or corporation.

PERSON IN CHARGE OF PROPERTY. An agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or supervision of a construction project.

PERSON RESPONSIBLE. The person responsible for abating a nuisance means any and all of the following:

- (a) The owner of the property or *a building or property where a violation or failure to comply has occurred;*
- (b) The person in charge of the *building or* property, as defined in this section, *where a violation or failure to comply has occurred;*
- (c) The person who caused to come into or continue in existence a nuisance, as defined in the ordinance codified in this chapter or any other ordinance of this city, *including: the violator or the person, or parent of legal guardian of a person, failing to comply with the ordinance, and where such person works for a contractor, either as an employee, subcontractor, or independent contractor, the contractor and/or other employer; and any*

licensee, permittee, or agent, manager, or person in charge. When a building is owned by an entity that is registered with the Oregon Secretary of State, that entity's registered agent is deemed a responsible person.

PLAINLY AUDIBLE SOUND. Any sound that is clearly distinguishable from other sounds, such as, but not limited to, sound for which the information content of that sound is unambiguously communicated to the listener, understandable spoken speech, comprehension of whether a voice is raised or normal, or comprehensive musical rhythms.

PROPERTY OWNER. *The record owner of real property, as listed on the current Coos County Assessor's records.*

PUBLIC PLACE. A building, way, place or accommodation, publicly or privately owned, open and available to the general public.

RODENT HABITAT. Any condition which attracts or is likely to attract, feed or harbor rats or mice; this applies to, but is not limited in application to, any building or other structure or part thereof which is not rodent-proof and is used to store or keep any substance on which rats or mice feed, or rubbish or other loose material that might serve as a harbor for rats or mice.

RODENT-PROOF. Any building, structure or part thereof is rodent-proof when it is constructed of concrete; metal or some equally impermeable material and in a manner that excludes rats and mice therefrom.

SOUND-PRODUCING DEVICE. Includes but is not limited to:

- (a) Loudspeakers, public address systems;
- (b) Radios, tape recorders and/or tape players, phonographs, television sets, mobile musical devices such as iPods, stereo systems, including those installed in a vehicle;
- (c) Musical instruments, amplified or unamplified;
- (d) Sirens, bells or steam whistles attached to a stationary device;
- (e) Vehicle engines or exhausts discharging into open air, when the vehicle is not on a public right-of-way, particularly when the engine is operated above idling speed;
- (f) Vehicle tires, when caused to squeal by excessive speed or acceleration;
- (g) Domestic tools, including electric drills, chainsaws, lawnmowers, leaf blowers, electric saws, hammers and similar tools, but only between 10:00 p.m. and 7:00 a.m. the following day; or
- (h) Heat pumps, air conditioning units and refrigeration units, including those mounted on vehicles.

VEHICLE. A device in or by which a person or property is or may be transported or drawn upon a public highway, excluding a device moved by human power or used exclusively upon station rails or tracks, and including, but not limited to, a vehicle body, engine, transmission, frame or other major part. Includes automobiles, motorcycles, motorbikes, trucks, buses and snowmobiles.

(B) The nuisances described in this chapter are considered to be nuisances affecting the public and shall be abate pursuant to §§ 93.02 through 93.12. In addition to the abatement costs, which may be charged against the property as described herein, persons responsible may also be charged with an offense or a fine.

UNOCCUPIED OR UNSECURED BUILDING. A building or structure that is not being used for lawful occupancy and/or lack of secure means of ingress and egress, thus allowing for occupancy or use of a building or structure by unauthorized persons.

Section 3. Section 93.06 of the Lakeside Municipal Code shall be repealed and replaced with the following:

§93.06 ***NON-ENUMERATED NUISANCES***

The acts, conditions or objects specifically enumerated and defined in §§93.02 through 93.05, ***and violations of Chapters 154 and 155 of the Lakeside Municipal Code***, are declared public nuisances and may be abated by the procedures set forth in §§93.07 through 93.12. In addition to the nuisances specifically enumerated in this chapter, every other thing, substance or act that is determined by the Council to be injurious or detrimental to the public health, safety or welfare of the city is declared a nuisance and may be abated as provided in this chapter.

Section 4. Section 93.07(B) of the Lakeside Municipal Code shall be repealed and replaced with the following:

(B) *Appeal procedure.*

(1) ***Within ten (10) days after the posting and mailing of notice as provided by §93.07(A), the person responsible shall abate the nuisance or show that no nuisance exists.***

(2) ***A person responsible, protesting that no nuisance exists, shall file a written appeal with the City Recorder/Manager. The City Recorder/Manager shall forward the appeal to the Municipal Court.***

~~(1)~~(3) Appeals to an order to abate shall be heard by the City Council ***Lakeside Hearings Official***. The City Council ***Hearings Official*** shall conduct a hearing on the appeal within 45 days of the filing of the appeal. ***Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply.***

~~(2)~~(4) The city must prove the existence of the nuisance by a preponderance of the evidence. The hearing shall be limited to admissible evidence. The City Council ***Hearings Official*** shall ~~may~~ prescribe by rule or regulation the procedures for the conduct of the hearing in conformity with applicable state statutes and may consult with its legal counsel regarding the interpretation and application of this chapter.

(3)(5) The City Council ***Hearings Official*** has the authority to administer oaths and take testimony of witnesses.

(4)(6) The person alleged to be responsible for the nuisance shall have the right to cross-examine witnesses who testify and shall have the right to submit evidence on his or her behalf, but cannot be compelled to do so.

(5)(7) After due consideration of the evidence and arguments, the ~~City Council~~ **Hearings Official** shall determine whether a nuisance has been established. If the nuisance has not been established, an order dismissing the same shall be entered. When the determination is that the nuisance has been established, an appropriate order shall be entered into the records. *In addition to the levying of a fine, if the city so requests, the Hearings Official may order the nuisance abated by the city, the cost of such abatement to be recovered through a lien against the property.* A copy of the order shall be delivered to the person named in the order personally or by mail or to their attorney of record.

(6)(7) The determination by the ~~City Council~~ **Hearings Official** shall be in writing and shall contain findings of fact and conclusions of law. The determination shall be issued within 30 days of the hearing and shall be final. The ~~City Council's~~ **Hearings Official** decision may be appealed to the Circuit Court with proper jurisdiction through the writ of review process.

(7)(8) A tape recording shall be made of the hearing, which tape shall be retained for at least 90 days following the ~~City Council's~~ **Hearings Official's** final judgment.

Section 5. Section 93.08 of the Lakeside Municipal Code is repealed and replaced with the following:

§93.08 **ORDER TO COMPLY.**

(A) *Upon determination by the City Recorder/Manager that a nuisance exists, the City Recorder/Manager or designee may issue an Order to Comply to a responsible person. Each and every day a failure to comply exists after the date specified in the Order to Comply shall constitute a separate failure to comply.*

(B) *An Order to Comply shall contain the following information:*

(1) *A description of the real property, by street address or otherwise, on which the nuisance exists;*

(2) *The name of the property's record owner;*

(3) *A description of the nuisance and the property condition that violates applicable code sections;*

(4) *A list of necessary corrections to bring the property into compliance;*

(5) *A deadline or specific date to correct the Order to Comply and the penalties that will be accruing on a daily basis if not remedied by that date;*

(6) *A statement that if the nuisance is not removed the city may abate the nuisance and the cost of abatement will be charged to the person responsible;*

(7) *Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: issuance of a*

Notice of Failure to Comply, civil injunction, administrative abatement, administrative civil penalties, revocation of permits, recording of a lien on the property, and withholding of future permits.

C. *Notice.* *The Notice of the Order to Comply shall be posted on the premises or at the site of the nuisance and the city administrator shall cause a copy of the Order to be forwarded by registered or certified mail, postage prepaid, to the property owner, at the address shown on the current Coos County assessment records, and on the responsible person, if not the property owner, by personal service; regular and certified mail, return receipt requested; or where the responsible person cannot be located, by posting a sign in a prominent location on the property where the nuisance occurs.*

Section 6. Section 93.09 of the Lakeside Municipal Code shall be repealed and replaced with the following:

§93.09 NOTICE OF FAILURE TO COMPLY.

A. *Where a responsible person fails to remedy an alleged violation within the time provided in an Order to Comply, the city manager or designee may issue a Notice of Failure to Comply to each person to whom the Order to Comply was issued. A Notice of Failure to Comply shall include the information required by LMC 93.08.B as well as a brief description of the procedure to appeal the Notice of Failure to Comply, including time limitations.*

B. *Notice.* *Notice of the Order of Failure to Comply shall be served as provided in LMC 93.08.C.*

C. *Notwithstanding LMC 93.08 above, the City Recorder/Manager or designee may issue a Notice of Failure to Comply without having issued an Order to Comply where the City Recorder/Manager or designee determines that the failure to comply reasonably appears to:*

- (1) pose an immediate threat to public health, safety or welfare, or*
- (2) be immediately remediable by a person in charge of the property, or*
- (3) be the same act or condition that served as the basis for a previous order to comply, or*
- (4) be done deliberately by a responsible person who had knowledge that the actions in question would constitute a failure to comply.*

Section 7. Section 93.10 of the Lakeside Municipal Code shall be repealed and replaced with the following:

If the person responsible has not abated the nuisance within the time allowed, the Council City Recorder/Manager may cause the nuisance to be abated.

(A) The officer charged with abatement of the nuisance shall only have the right to enter into or upon the property with the owner's permission or in accordance with the law. If the owner refuses, the officer may not enter a dwelling or abate a nuisance not affecting public

health or safety until a warrant has been issued *by a Circuit Court Judge* allowing entry. Where a nuisance affecting public health or safety has been found to exist, the officer may enter the property to abate the nuisance in accordance with this section.

(B) The City Recorder/Manager shall keep an accurate record of the expense incurred by the city in physically abating the nuisance, and shall include a charge of \$100 ~~\$150~~ or ~~10%~~ **15%** of those expenses, whichever is greater, for administrative costs *overhead*.

Section 8. Section 93.11 of the Lakeside Municipal Code shall be repealed and replaced with the following:

The City Recorder/Manager, or his or her designee, shall forward to the owner and the person responsible, registered or certified mail, a notice stating:

- (A) The total cost of abatement, including the administrative costs *overhead*;
- (B) The cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;
- (C) *That the cost of abatement will be temporarily entered in the city's lien docket;*
- (D) That if that person responsible objects to the cost of the abatement as indicated, he/she may file a notice of objection with the City Recorder/Manager not more than ten (10) days from the date of the notice. *If an objection is received on or before the expiration of ten (10) days after the notice was served, the City Recorder/Manager shall consider the objection and make a final determination regarding the cost to be assessed. The final determination may be appealed to the Hearings Official.*
- (E) *Final abatement costs shall be entered as a lien in the docket of the city liens; and, upon such entry being made, shall constitute a lien upon the property from which the nuisance/violation was removed or abated. The lien shall be enforced and shall bear interest at the statutory rate. The interest shall commence to run from the date of the entry of the lien in the lien docket. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.*

Section 9. Section 93.99 of the Lakeside Municipal Code shall be repealed and replaced with the following:

93.99 Determination of Monetary Penalty

The amount of the monetary penalty to be assessed under LMC 93.09 above shall be determined in accordance with the following formula, as described herein.

A. *The dollar amount of the assessment is calculated by multiplying the amount of the BASE (LMC 93.99.A.1) by the MULTIPLIER (LMC 93.99.A.2) and multiplying that by twenty*

(\$20). Notwithstanding this formula, the maximum assessment for a violation for a single day shall be two thousand dollars (\$2,000) except as provided for cases involving commercial gain in Section 8.05.165.B.

1. The BASE is the sum of "H" plus "P" plus "R" plus "C" plus "E" where:

(a) "H" is the history of the person responsible taking all feasible steps or procedures necessary or appropriate to correct the failure to comply. The value of "H" shall be:

(1) Zero (0), if the person responsible has taken a major, active role in attempting to resolve the failure to comply. There must have been a physical effort that resulted in significant improvement. Verbal communication is not sufficient by itself, but it may be considered a part of the necessary effort.

(2) One (1), if the person responsible has made minor efforts to correct the failure to comply, but not significant improvement resulted. Verbal communication is not sufficient by itself, but it may be considered a part of the necessary effort.

(3) Four (4), if the person responsible took little or no action whatsoever. This includes verbal contact or assurances that the problem will be resolved, but with no noticeable physical effort to correct the failure to comply.

(b) "P" is the number of prior failures to comply or violations of the code provision upon which the current failure to comply is based. This number is based on prior similar complains verified as valid, whether or not further enforcement action occurred. The value of "P" shall be:

(1) One (1), if the present failure to comply is the first failure to comply within the past three (3) years.

(2) Two (2), if the present failure to comply is the second failure to comply within the past three (3) years.

(3) Four (4), if the present failure to comply is the third or subsequent failure to comply within the past three (3) years.

(c) "R" is the nature of the occurrence, considering whether it was repeated or continuous as opposed to a single occurrence. The value of "R" shall be:

(1) One (1), if the failure to comply was a one (1) time occurrence.

(2) Two (2), if the failure to comply was repeated or continuous in nature.

(d) "C" is whether the cause of the failure to comply was an inadvertent, negligent, or a reckless or intentional act. The value of "C" shall be:

(1) One (1), if the failure to comply was unavoidable accident or caused by others. This category is used when the monetary penalty is assessed either (a) against a person who is responsible for the property, such as an owner, but who was not physically in charge of the property when the failure to comply occurred; or (b) against someone who did cause the failure to comply but could not have reasonably foreseen that the failure to comply would occur.

(2) Two (2), if the failure to comply was caused by a person responsible's negligence. Negligence is the failure to exercise the care that a prudent person would exercise under the circumstances. This category is used where someone either caused the failure to comply by carelessness or was negligent in taking the necessary corrective steps within the allowed time-period.

(3) Four (4), if the failure to comply was due to reckless or intentional acts. A reckless act is marked by a lack of proper caution, or carelessness or consequences. An intentional act is an act done by intention or design.

(e) "E" is the person responsible's cooperativeness and efforts directed toward correcting the failure to comply. The value of "E" shall be:

(1) Zero (0), if the person responsible was cooperative resulting in the need for minimal enforcement effort on the part of the enforcement officer.

(2) Two (2), if the person responsible was not cooperative.

2. The MULTIPLIER is the product of "A" multiplied by "G" where:

(a) "A" is the number of prior enforcement actions taken against the person responsible by the city, whether at this property or another, and whether for this type of failure to comply or another. The value of "A" shall be:

(1) One (1), if this failure to comply is the first enforcement action taken against this person in the last five (5) years.

(2) Two (2), if there has been one (1) prior enforcement action taken against this person within the past five (5) years.

(3) Three (3), if this failure to comply is at least the third enforcement action taken against this responsible person within the past five (5) years.

(b) "G" is the immediacy and magnitude of the failure to comply. This factor is evaluated at the time compliance efforts have been initiated. The value of this factor does not decrease if, after enforcement action is initiated, city efforts reduce the

gravity of the occurrence or the person responsible makes corrections only at the insistence of the city. The value of "G" shall be:

(1) One (1), for a failure to comply that is not an immediate threat to health, safety or the general welfare and has only minor potential consequences. These situations pose non-immediate threats to lives or property such that the failure to comply can be tolerated while corrective action is taken.

(2) Two (2), for a failure to comply that is significant, but does not pose an immediate threat to health, safety or the general welfare. These occurrences pose significant potential consequences, though the threat is not immediate. These situations can be tolerated for a limited period of time with interim measures taken to minimize the threat.

(3) Three (3), for a failure to comply that is substantial and poses an immediate threat to health, safety or the general welfare. These situations pose immediate threats to lives such that the threat cannot be tolerated. Action must be taken immediately to prevent occupancy of the premises or to remove the hazard.

B. In cases involving commercial gain, the dollar amount of the assessment calculated using the formula in LMC 93.99 above shall be multiplied by a factor of three (3) provided that the maximum assessment for a failure to comply of a single day for a case involving commercial gain shall be two thousand five hundred dollars (\$2,500).

C. Each day's violation of a provision of this chapter constitutes a separate violation.

Section 10. Section 155.022 of the Lakeside Municipal Code is repealed and replaced with the following:

§§ 155.022 VIOLATION AND PENALTIES

~~Any person, firm, or corporation found guilty of a violation shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than \$200~~

Violation of this chapter shall be deemed a nuisance and subject to penalties determined by Section 93.99 of the Lakeside Municipal Code.

Section 11. Severability. The provisions of this ordinance are severable. If a section, a sentence, clause or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

Section 12. Effective Date. This Ordinance will become effective 30 days after its passage by the City Council and approval by the Mayor.

PASSED BY THE LAKESIDE CITY COUNCIL THIS _____, 2024.

Ayes: _____

Nays: _____

ATTESTED:

APPROVED:

Richard Hohnbaum, City Recorder/Manager

Mark Crouch, Mayor