

ORDINANCE 03-241

An Ordinance repealing Ordinance Number 231 and amending Ordinance No. 155A.  
The Transient Occupancy Tax by increasing the tax rate. 155A

**Section 3. Tax imposed.** For the privilege of occupancy in any Motel/RV Park on and after July 1, 2003 each transient shall pay a tax in the amount of seven and one half (7 1/2) percent.

**Section 19. Effective Date.** This ordinance shall become effective at 12:01 AM on the 1<sup>st</sup> day of July and the first payment of taxes hereunder shall become delinquent unless paid on or prior to the 12<sup>th</sup> day of October 2003.

**Section 20. Emergency Clause.** The City Council of the City of Lakeside, Oregon finds that the health, safety, and welfare of the City of Lakeside require this ordinance to have immediate effect. Therefore the City Council hereby declares the existence of an emergency and this ordinance shall be in full force from the time of its passage.

Passed this May 27<sup>th</sup> of \_\_\_\_\_, 2003.

ATTESTED:

APPROVED:

Susan Chauncey  
Susan Chauncey, City Recorder

Ed Gowan  
Ed Gowan, Mayor

**AN ORDINANCE PROVIDING FOR A TRANSIENT OCCUPANCY TAX FOR THE CITY OF LAKESIDE AND TO PROVIDE THE ADMINISTRATION PROCEDURES FOR COLLECTION OF SAME.**

**The city of Lakeside does hereby ordain as follows:**

**Section 1. Title.** This ordinance shall be known as the Transient Tax Ordinance for the city of Lakeside.

**Section 2. Definitions.** Except where the context otherwise requires, the definitions given in this section govern the construction of this ordinance.

(a) Motel - means any structure, or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less, for dwelling, lodging, or sleeping purposes, and includes any motel, inn, tourist home or house, hotel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private club, space in mobile home or trailer parks, or similar structure or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.

(b) R. V. Park - means any land use intended, occupied or designed for the placement of recreational vehicles (RV) for transient occupancy for thirty (30) days or less. R.V.'s as defined are: Trailers, motor homes, pick-up campers; which provide shelter and may or may not have self contained service provisions.

(c) City Council - means the city council of the city of Lakeside, Oregon.

(d) Occupancy - means the use or possession, or the right to use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer/R.V. park or portion thereof.

(e) Operator - means the person who is proprietor of the motel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this ordinance and shall have the same duties and liabilities as his principal. Compliance with the provisions of this ordinance by either the principal or the managing agent shall be considered to be compliance by both.

(f) Person - means any individual, firm, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

(g) Cash Accounting - means the operator does not enter the rent due from a transient on his records until rent is paid.

(h) Accrual Accounting - means the operator enters the rent due from a transient on his records when the rent is earned whether or not it is paid.

(i) Rent - means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel or R.V. park valued in money, goods, labor, credits, property or other considerations valued in money, without any deduction.

(j) Rent Package Plan - means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient tax under this ordinance shall be the same charge made for rent when consideration is not a part of a package plan.

(k) Transient - means any individual who exercises occupancy or is entitled to occupancy in a motel/R.V. park for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel/R.V. park shall not be included in determining the thirty-day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a motel/R.V. park shall be deemed a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this ordinance may be considered. A person who pays for lodging/R.V. space on a monthly basis, irrespective of the number of days in such month shall not be deemed a transient.

(l) Tax - means either the tax payable by the transient, or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

**Section 3. Tax Imposed.** For the privilege of occupancy in any motel/R.V. park on and after July 1, 1993, each transient shall pay a tax in the amount of five percent (5%) of the rent charged by the operator. The tax constitutes a debt owned by the transient to the city which is extinguished only by payment to the operator or the city. The transient shall pay the tax to the operator of the motel/R.V. park at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the accrual basis. If rent is paid in installments a proportionate share of the tax shall be paid by the transient to the operator with each installment. If for any reason the tax due is not paid to the operator of the motel/R.V. park, the city recorder may require that such tax shall be paid directly to the city. In all cases, the rent paid or charged for occupancy shall exclude the sale of any good, services and commodities, other than the furnishing of rooms, accommodations, and parking space in a mobile home park or trailer/R.V. parks.

**Section 4. Collection of Tax by Operator; Rules for Collection.**

(a) Every operator renting rooms or R.V. spaces in this city, the occupancy of which is not exempt under the terms of this ordinance, shall collect a tax from the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the city.

(b) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid and the operator shall not be liable for the tax until credits are paid-or deferred payments are made.

**Section 5. Operator's Duties.** Each operator shall collect the tax imposed by this ordinance at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered by the operator. No operator of a motel/R.V. park shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded except in the manner provided by this ordinance.

**Section 6. Exemptions.** No tax imposed under this ordinance shall be imposed upon:

(a) Any occupant for more than thirty (30) successive calendar days (a person who pays on a monthly basis, irrespective of the number days in such month, shall not be deemed a transient);

(b) Any occupant whose rent is of a value of less than \$2.00 per day;

(c) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidentally to his own use thereof;

(d) Any occupant whose rent is paid for hospital room or to a medical clinic, convalescent home or home for aged people.

**Section 7. Registration of Operator; Form and Contents; Execution.** Every person engaging in or about to engage in business as an operator of a motel/RV park in this city shall register with the city recorder on a business license form provided by him. Operators engaged in business at the time this ordinance is adopted must register not later than thirty (30) calendar days after passage of this ordinance. Operators starting business after this ordinance is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the city recorder may require.

**Section 8. Returns and Payments.**

(a) The tax imposed by this ordinance shall be paid by the transient to the operator at the time that rent is paid. Such taxes collected by any operator are due and payable to the city recorder as follows:

(1) On a monthly basis by the fifteenth day of the following month for the first twelve months following registration as an operator of a motel/R.V. park in the city; or

(2) On a monthly basis by the fifteenth day of the following month for a period of time designated by the city recorder whenever the operator has been delinquent in two or more consecutive payments; or

(3) On a quarterly basis on the fifteenth day of the month following the closed of the quarter for all other operators. The quarters are:

- (a) 1st quarter - January, February, March
- (b) 2nd quarter - April, May, June
- (c) 3rd quarter - July, August, September
- (d) 4th quarter - October, November, December

(b) Taxes are delinquent if not paid within ten days of the due date.

(c) Returns shall be filed in such form as the city recorder may prescribe. Returns are due at the time the tax is paid. Returns shall show the amount of tax collected or otherwise due for the related period. The city recorder may require returns to show the total rentals upon which tax was collected or otherwise due.

(d) The person required to file the return shall deliver the return, together with the remittance of the amount of tax due, to the city recorder at his office either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

### **Section 9. Delinquency Penalties.**

(a) An operator who has to been granted an extension of the time for remittance of tax due and who fails to remit the tax prior to delinquency shall pay a penalty of 10 percent of the tax due in addition to the tax.

(b) An operator who has not been granted an extension of time for remittance of tax due, and who fails to pay a delinquent remittance before the extension of 30 days following the date on which the remittance became delinquent, shall pay a second delinquency penalty of 15 percent of the tax due, the amount of the tax, and the 10 percent penalty first imposed.

(c) If the tax administrator determines that the non payment of a remittance is due to fraud or intent to evade the tax, a penalty of 25 percent of the tax shall be added in addition to the penalties stated in subsection (a) and (b).

(d) In addition to the penalties imposed by this section, an operator who fails to remit the required tax shall pay interest at the rate of 0.5 percent per month, without proration for portions of a month. on the tax due, exclusive of penalties, from the date on which the tax first became delinquent until paid.

(e) Each penalty imposed and the interest accrued under the provisions of this section shall be merged with and become a part of the tax required to be paid.

### **Section 10. Deficiency Determinations; Fraud, Evasion, Operator Delay.**

(a) Deficiency Determination. If the city recorder determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 9.

(1) In making a determination the city recorder may offset overpayments if any, which may have been previously made for a period or periods against any underpayment for a subsequent period or periods, or against penalties, and interest, on the underpayment. The interest on underpayments shall be computed in the manner set forth in Section 9.

(2) The city recorder shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail.

(b) Fraud, Refusal to Collect, Evasion. If any operator shall fail or refuse to collect said tax or to make, within the time provided in this ordinance, any report and remittance of said tax or any portion thereof required by this ordinance, the city recorder shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the city recorder has determined the tax due that is imposed by this ordinance from any operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator the tax and interest provided for by this ordinance. In case such determination is made, the city recorder shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years after discovery by the city recorder of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file return. Any determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the city recorder has given notice thereof

(c) Cost of Determining Tax. All costs to the city in determining the actual tax due from any operator shall be added to and become a part of the amount owed by the operator upon written notice to the operator, served personally or by mail.

### **Section 11. Redeterminations.**

(a) Any person against whom a determination is made under Section 10 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 10 hereof. If a petition for redetermination and refund is not filed within the time required in Section 10, the determination becomes final at the expiration of the allowable time.

(b) If a petition for redetermination and refund is filed within the allowable period, the city recorder shall reconsider the determination, and if the person has so requested in his petition, shall grant the person an oral hearing and shall give advance notice of the time and place of the hearing. The city recorder may continue the hearing from time to time as may be necessary.

(c) The city recorder may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after hearing.

(d) The order of decision of the city recorder upon a petition for redemption and refund becomes final ten (10) days after service upon the petitioner of notice thereof unless appeal of such order or decision is filed with the Lakeside city council within the ten (10) days after service of such notice. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions herein.

**Section 12. [Security Deposit.]**

(a) The city recorder, whenever he deems it necessary to insure the compliance with this ordinance, may require the operator subject thereto to deposit with him such security in the form of cash, bond or other security shall be fixed by the city recorder but shall not be greater than twice the operator's estimated average monthly liability for the period for which he files returns, determined in such a manner as the city recorder deems proper, or five thousand dollars, whichever amount is less. The operator has a right to appeal to the Transient Occupancy Tax Appeal Board any decision of the city recorder made pursuant to Section 15 herein.

(b) At any time within three years after any tax, or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the city recorder may bring any action in the courts of this state, or any other state of the United States in the name of the city to collect the amount delinquent together with penalties and interest.

**Section 13. Refunds.**

(a) Operator Refunds. Whenever the amount of any tax, penalty, or interest has been paid more than once, or has been erroneously collected or received by the city recorder, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the city recorder within three years from the date of payment. If the claim is approved the excess amount collected or paid may be refunded the operator from whom it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors, or assignees. All refunds shall be charged to the Transient Occupancy Tax Revenue Account of the city's General fund.

**SECTION 14. [Records.]**

(a) Records Required From Operators; Form. Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for three years after they come into being.

(b) Examination of Records; Investigations. The city recorder may examine during normal business hours, the books, papers, and accounting records relating to occupancy sales of any operator after notification to the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(c) Confidential Character of Information Obtained; Disclosure Unlawful. It shall be unlawful for the city recorder or any person having an administrative or clerical duty under the provisions of this ordinance to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and information and equipment of any person.

(1) The disclosure to, or the examination of records and equipment by another city of Lakeside official, employee or agent for collection of taxes for the sole purpose of administering or enforcing any provision of this ordinance; or collecting taxes imposed hereunder.

(2) The disclosure after the filing of a written request to that effect? to the taxpayer himself, receivers, trustee, executors, administrators, assignees, and guarantors, if directly interested, of information as to any paid tax, any unpaid tax, or amount of tax require to be collected, or interest, and penalties; further provided, however, that the city Attorney approves each such disclosure and that the city recorder may refuse to make any disclosure referred to in the paragraph when in his opinion the public interest would suffer thereby.

**Section 15. Transient Occupancy Tax Appeal Board; Procedure.** A Transient Occupancy Tax Appeal Board is hereby created to be composed of members of the Lakeside city council. Four members of the board shall constitute a quorum. The board shall keep a record of its transactions and shall not, at any time, receive any compensation for their service on the board.

The board shall have the power to:

(1) Hear and determine appeals of orders or decisions of the city recorder made upon petitions for redetermination of tax. The board may affirm, modify, or reverse such orders or decision or dismiss the appeals as it may deem necessary. In the review of the city recorders decision or order, the committee may take such evidence and make such investigation as it may deem necessary and give notice of its determinations. Such determination shall become final ten days thereafter and shall thereupon become due and payable, subject to interest and penalties.

(2) Modify, affirm, or disapprove all forms, rules, determinations, and regulations prescribed by the city recorder in the administration and enforcement of this ordinance.

(3) Make such investigations as it deems advisable regarding the imposition and administration of the transient occupancy tax.

(4) Revoke the business license issued to any operator for repeated failure to comply with this ordinance and order such revocation to continue until the operator has come into compliance and paid in full all taxes owing, including delinquency penalties, interest and costs. Such revocation may be in addition to any other penalties imposed by this ordinance.

**Section 16. Severability Clause.**

**Section 17. Violations.** It is unlawful for any operator or other person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the city recorder or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this ordinance.

**Section 18. Violation.** Any person willfully violating any provisions of this ordinance shall be fined not less than five dollars and not more than five hundred dollars for each such offense.



**Section 19. Effective Date.** This ordinance shall become effective at 12:01 am. on the 1st day of July and the first payment of taxes hereunder shall become delinquent unless paid on or prior to the 12th day of October 1993.

Passed by the council and approved by the mayor May 13, 1993.

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**ORDINANCE NO. 155B**

**AN ORDINANCE PROVIDING THAT THE LAKESIDE PLANNING COMMISSION MAY SEEK ADVICE AND GUIDANCE IN DIVERSE AREAS FROM OUTSIDE CONSULTANTS; AND PROVIDING A MEANS BY WHICH THE COST OF SUCH CONSULTANTS IS TO BE PAID BY THOSE INDIVIDUALS OR ORGANIZATIONS RESPONSIBLE FOR CREATING THE NEED FOR SUCH ADVICE AND GUIDANCE; AND AMENDING ORDINANCE NO. 117, THE ZONING ORDINANCE, BY ADDING SECTION 22.000.**

**The city of Lakeside ordains as follows:**

**Section 1. [Request From Outside Sources].** When the planning commission has matters before it which, in the determination of the planning commission require technical expertise or evaluation to assist the planning commission in its determination of the matter, the planning commission is authorized to request scientific or technical assistance from outside sources pursuant to the terms of this ordinance.

**Section 2. [Declarations].** Should the planning commission determine a need for scientific or technical assistance on matters before it implicating scientific or technical subjects including, but not limited to, civil engineering geology, hydrology, seismic perils, wetlands, traffic flow, environmental regulations, concerns or impacts on public health and safety, the planning commission shall make such declarations by majority vote.

**Section 3. [Form of Declaration].** The declaration shall be written and in substantially the following form:

In the matter of \_\_\_\_\_, the Planning Commission declares there are considerations, involving the future health and welfare of the residents of Lakeside and that in order to provide maximum protection to the citizens, the Planning Commission deems it necessary to require technical assistance for the following reasons:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

(c) \_\_\_\_\_

**Section 4. [Notification of Declaration].** Immediately following a declaration made pursuant to sections 1, 2, and 3 of this ordinance, the secretary of the planning commission shall notify the mayor or, in the mayor's absence, the president of the council, of such action and shall furnish the mayor or president of the council, as the case may be, with a copy of the written declaration.

**Section 5. [Review of Declaration].** The chairman of the planning commission and the mayor, or, if necessary, their designates from the planning commission and the council, respectively, shall promptly meet and the representative of the planning commission shall review the written declaration with the mayor, or, if necessary, the mayor's designate.

**Section 6. [Special Meeting].** The mayor, or, in the absence of the mayor, the president of the council, shall promptly call a special council meeting to, consider and approve or reject the planning commission's request for technical or scientific assistance.

**Section 7. [Responsibility of Costs].** The person or organization(s) whose request, application or other action has resulted in the planning commission's request for technical or scientific assistance shall be solely responsible for complete costs thereof, these costs are in addition to any administrative fees. If such person or organizational representative is in attendance when the planning commission considers the matter, the person or organizational representative shall be verbally advised of their responsibility for said costs. The planning commission shall mail a similar notice to the person or organization at the address furnished by the person or organization.

**Section 8. [Notice of Costs].** Promptly upon ascertaining the expected costs of the scientific or technical assistance evaluation, the city recorder shall mail written notice of the expected costs to the person or organization affected, together with a statement that said sum must be deposited with the city to cover the expected costs. The city shall not obtain technical or scientific assistance until funds are received to pay the expected costs thereof.

**Section 9. [Procurement and Submittal of Studies and Reports].** The planning commission may require applicants to procure and submit specified technical and scientific studies and reports. The expense of such studies and reports shall be the sole responsibility of the applicant.

**Section 10. [Application Deemed Complete].** No application shall be deemed complete until the city actually receives the written technical and scientific reports required pursuant to this ordinance.

**Section 11. [Payments or Deposits].** Any and all payments or deposits required under this ordinance shall be in cash, cashier's check, certified check or by surety bond acceptable to the city. Property shall not be taken as collateral to secure payment of sums owed under this ordinance.

**Section 12. [Certificates of Insurance].** Any person or firm engaged by the city to advise the planning commission shall first provide certificates of insurance reflecting current coverage for:

- (a) Automobile liability coverage in compliance with state law;
- (b) Worker's compensation insurance if required by state law;
- (c) General liability insurance in the amount of \$500,000; and
- (d) Professional liability or omissions insurance in the amount of \$1,000,000.

**Section 13. [Application Form].** Application forms provided by the city for planning commission action shall contain the following language:

Pursuant to the provisions of Lakeside Ordinance No. 117, the city of Lakeside may require applicants to procure at applicant's expense technical or scientific reports to assist the planning commission's determination of the applicant's submission. Should the planning commission require technical or scientific assistance in evaluating an applicant's submission, the applicant must deposit with the city, funds sufficient to pay the expected costs of such assistance. Applications are not deemed complete until such funds, if any, are paid and the city receives the written technical or scientific reports.

Passed by the council and approved by the mayor June 10, 1993.

**Section 4. [Notification of Declaration.]** Immediately following a declaration made pursuant to sections 1, 2, and 3 of this ordinance, the secretary of the planning commission shall notify the mayor or, in the mayor's absence, the president of the council, of such action and shall furnish the mayor or president of the council, as the case may be, with a copy of the written declaration.

**Section 5. [Review of Declaration.]** The chairman of the planning commission and the mayor, or, if necessary, their designates from the planning commission and the council, respectively, shall promptly meet and the representative of the planning commission shall review the written declaration with the mayor, or, if necessary, the mayor's designate.

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**Section 7. [Responsibility of Costs.]** The person or organization(s) whose request, application or other action has resulted in the planning commission's request for technical or scientific assistance shall be solely responsible for complete costs thereof, these costs are in addition to any administrative fees. If such person or organizational representative is in attendance when the planning commission considers the matter, the person or organizational representative shall be verbally advised of their responsibility for said costs. The planning commission shall mail a similar notice to the person or organization at the address furnished by the person or organization.

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Pursuant to the provisions of Lakeside Ordinance No. 117, the city of Lakeside may require applicants to procure at applicant's expense technical or scientific reports to assist the planning commission's determination of the applicant's submission. Should the planning commission require technical or scientific assistance in evaluating an applicant's submission, the applicant must deposit with the city, funds sufficient to pay the expected costs of such assistance. Applications are not deemed complete until such funds, if any, are paid and the city receives the written technical or scientific reports.

Passed by the council and approved by the mayor June 10, 1993.