

ORDINANCE NO. 96

AN ORDINANCE DEFINING NUISANCES AND REPEALING ORDINANCES NO. 7, 24 AND 82.

THE CITY OF LAKESIDE ORDAINS AS FOLLOWS:

ARTICLE 1. Definitions

Section 1.100. Definitions. For the purposes of this ordinance, certain words, terms and phrases are defined as follows:

PERSON Any natural person, firm, copartnership, association, or corporation whether he or it is acting for himself or itself or as the clerk, servant, employee or agent of another.

PERSON IN CHARGE OF PROPERTY

An agent, occupant, lessee, contract purchaser, or person other than the owner, having possession or control of the property.

PUBLIC PROPERTY

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

PRIVATE PROPERTY

A building, way, place or accommodation, privately owned, not open and available to the general public.

ARTICLE 2. Nuisances Affecting Public Health and Safety

Section 2.100. Attractive Nuisances.

- (1) No owner or person in charge of property shall permit on the property:
  - (a) Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children.
  - (b) Lumber, logs or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children.
- (2) This section does not apply to authorized construction projects with reasonable safeguards to prevent injury or death to playing children.

Section 2.110. Sidewalks, Obstructing. It shall be unlawful for any crowd or collection of persons to gather or to stand upon any sidewalk or street crossing so as to prevent, interrupt, or obstruct the travel or free passage over the same by the public or for any person to fail or refuse to disperse or move on when directed to do so by any police officer.

Section 2.120. Streets and Sidewalks, Obstructing. It shall be unlawful for any person to place or deposit upon any street or sidewalk any article which tends to prevent, interrupt, or obstruct the travel or free passage of pedestrian and vehicular traffic.

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Section 2.130. Ice and Snow, Removal. It shall be the duty of the owner, lessee, occupant, or person having the control or custody of any premises or unimproved property to remove all snow or ice which has fallen or accumulated upon the sidewalks abutting such premises or property within two hours after such snow or ice has ceased to fall thereon; provided, however, that if such snow is falling or such ice is accumulating after the hour of 6 p.m., the same shall be removed within two hours after it shall cease to fall or within two hours after 7 a.m. on the next succeeding day, as the case may be.

Section 2.140. Building Entrances, Obstructing. It shall be unlawful for any person to obstruct any entrance, stairway, or hall leading to any building.

Section 2.150. Slaughterhouse. It shall be unlawful for any person to maintain a slaughterhouse or tannery within the corporate limits of the City of Lakeside.

Section 2.160. Water Pollution. It shall be unlawful for any person to put any animal carcass or part thereof, or any excrement, or any putrid, nauseous, decaying, deleterious, or offensive substances in any stream, well, spring, brook, ditch, pond, or other inland waters within the corporate limits of the City of Lakeside, or to place any such substances in such position that high water or natural seepage will carry the same into any such waters.

Section 2.170. Offensive Odors and Sanitation. It shall be unlawful for any person to permit:

- (1) A place where animals are kept to be filthy or unsanitary, give off foul or noxious odors, or breed flies or vermin.
- (2) A septic tank, privy or cesspool contents to drain, flow or become deposited upon the property of another or to come to the surface of the ground and cause offensive odors.
- (3) Garbage to accumulate and become a health hazard or cause offensive odors.

Section 2.180. Trees.

- (1) No owner or person in charge of property that abuts on a street or public sidewalk shall permit trees or bushes on the property to interfere with street or sidewalk traffic. An owner or person in charge of property that abuts on a street or public sidewalk shall keep all trees and bushes on the premises, including the adjoining parking strip, trimmed to a height of not less than eight feet above the sidewalk and not less than 10 feet above the roadway.
- (2) No owner or person in charge of property shall allow a dead, decaying, or hazardous tree to stand if it is a hazard to the public or to persons or property on or near the property.

Section 2.190. Junk.

- (1) No person shall keep junk outdoors on a street, lot, or premises or in a building that is not wholly or entirely enclosed except for doors used for ingress and egress.
- (2) The term "junk", as used in this section, includes all old motor vehicles, old motor vehicle parts, abandoned automobiles, old machinery parts, old appliances or appliance parts, old iron or other metal, glass, paper, lumber, wood or other waste or discarded material.
- (3) This section does not apply to junk kept in a licensed junk yard or automobile wrecking house.

Section 2.200. Disorderly Conduct. It shall be unlawful for any person to, with intent to cause inconvenience, annoyance or alarm to another, or recklessly create a risk thereof, to engage in any of the following acts:

- (1) Engage in fighting or in violent, tumultuous or threatening behavior; or
- (2) Make unreasonable noise; or
- (3) Use abusive or obscene language, or make an obscene gesture, in a public place; or
- (4) Disturb any lawful assembly of persons without lawful authority; or
- (5) Obstruct vehicular or pedestrian traffic on a public way; or
- (6) Congregate with other persons in a public place and refuse to comply with a lawful order of the police to disperse; or
- (7) Initiate or circulate a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
- (8) Create a hazardous or physically offensive condition by any act which he is not licensed or privileged to do.

Section 2.210. Firearms and Weapons. Except within and upon the premises of Hall Lake Gun Club and the City Police Firing Range, or except for a law enforcement officer in the discharge of his lawful duties, it shall be unlawful for any person to discharge any firearm, bombs, air gun or to use any bean shooter, sling shot or other similar weapon or device. Provided, however, that no firearm shall be discharged in any area between the hours of 12 o'clock a.m. (midnight) and 9 o'clock a.m. And further provided that notwithstanding the foregoing provisions, City may grant a privilege to any person to conduct activities otherwise prohibited hereunder at such times and places and under such conditions and restrictions as the City Council shall in its discretion impose. Such permission shall be evidenced by a written permit signed by the Mayor or other authorized representative of the City.

### ARTICLE 3. Unenumerated Nuisances

Section 3.100. Unenumerated Nuisances. In addition to the nuisances specifically enumerated in this ordinance, every other thing, substance or act that is determined by the City Council to be injurious or detrimental to the public health, safety or welfare of the City is declared a nuisance.

ARTICLE 4. Abatement Procedure

Section 4.100. Notice.

(1) On determination by the council that a nuisance exists, the council shall cause a notice to be posted on the premises or at the site of the nuisance, directing the person responsible and the property owner to abate the nuisance.

(2) At the time of posting, the city recorder shall cause a copy of the notice to be forwarded by registered or certified mail to the person responsible and the property owner at their last known addresses.

(3) The notice to abate shall contain:

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

(b) A direction to abate the nuisance within 10 days from the date of notice.

(c) A description of the nuisance.

(d) A statement that, unless the nuisance is removed, the city may abate the nuisance and the cost of abatement will be charged to the person responsible and the property owner.

(e) A statement that failure to abate a nuisance may warrant imposition of a fine or jail sentence in addition to abatement costs.

(f) A statement that the person responsible and/or the property owner may protest the order to abate by giving notice to the city recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

Section 4.110. Abatement by the Person Responsible, or Owner

(1) Within 10 days after the posting and mailing of notice as provided in section 6.100, the person responsible and/or the property owner shall remove the nuisance.

Section 4.120. Contested Hearing

(1) A person responsible, and/or the property owner, who is protesting that no nuisance exists shall file a written statement that specifies the basis for the protest with the city recorder on or before 10 days from the date of the posted notice.

(2) The statement shall be reviewed by the public works superintendent,

(a) Who may accept or reject the protest. Upon rejection, the protestor may request a hearing before the council, and the council may allow the protestor a hearing but in the meantime, the superintendent shall proceed with abatement of the nuisance.

(b) If the council allows the protestor to be heard, the council shall determine whether a nuisance in fact exists and the determination shall be entered in the official minutes of the council. Council determination shall be required only in cases where a written statement has been filed as provided.

(3) If the council determines that a nuisance in fact exists, the person responsible shall abate the nuisance as quickly as is physically possible.

Section 4.130. Joint Responsibility.

(1) The officer charged with abatement of the nuisance shall have the right to enter into or upon the property at reasonable times to investigate or cause the removal of the nuisance.

(2) The city recorder shall keep an accurate record of the expense incurred by the city in physically abating the nuisance and shall include a charge of \$10 or 10 percent of those expenses, whichever is greater, for administrative costs.

Section 4.140. Assessment of Costs.

(1) The city recorder shall forward to the owner and the person responsible, by registered or certified mail, a notice stating:

(a) The total cost of abatement, including the

Section 4.140. Assessment of Costs. (cont.)

administrative costs.

(b) That the costs 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 if the owner or the person responsible objects to the cost of the abatement as indicated, a notice of objection may be filed with the city recorder not more than 10 days from the date of the notice.

(2) The council, in regular course of business, shall hear and make a decision on the objections to the costs assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, as stated or as decided by the council, the costs shall be entered in the docket of city liens. When the entry is made, it shall constitute a lien on the property from which the nuisance was removed or abated and the county clerk shall be notified in writing of the lien and shall be requested to record said lien in the county records.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the statutory (ORS) rate for judgments. The interest shall begin to run from the date of entry of the lien in the lien docket.

General

Section 4.150. Summary Abatement. The procedure provided by this ordinance is not exclusive, but is in addition to procedure provided by other ordinances. The chief of the fire department, the chief of police, or any other city official may proceed summarily to abate a health or other nuisance which unmistakably exists and which imminently endangers the health, welfare or general safety of the community.

Section 4.160. Penalties. A person convicted of being the author or keeper of a nuisance, or found guilty of a violation of a provision of this ordinance shall be fined not less than \$200.00 nor more than \$500.00 for the first offense, and for the second and all subsequent offenses, not less than \$500.00 nor more than \$1,000.00.

Section 4.170. Separate Violations.

(1) Each day's violation of a provision of this ordinance constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person from the duty to abate the nuisance. However, abatement of a nuisance within 10 days of the date of notice to abate, or if a written protest has been filed, and the city council agrees to grant a hearing, then prompt abatement following council determination that a nuisance exists, will relieve the person responsible from the imposition of a fine.

Section 4.180. Severability. The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

ARTICLE 5. General

Section 5.100. Constitutionality. If any clause, sentence, paragraph, section or portion of this ordinance for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not affect, impair, or invalidate the remainder of this ordinance but shall be confined in its operation to the clause, sentence, paragraph, section, or portion of this ordinance directly involved in the controversy in which such judgement is rendered.

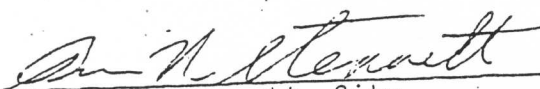
Section 5.110. Repeal. Ordinance No. 7, enacted January 21, 1975, as amended by Ordinance No. 24, enacted August 18, 1977 and Ordinance No. 82, enacted September 17, 1981, is repealed.

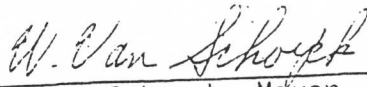
Section 5.120. Emergency Clause. It is hereby necessary for the peace, health, safety and general welfare of the inhabitants of the City and to enable the police officers of the City to exercise order, control and efficiently maintain the peace, that this ordinance be in full force and effect immediately and on account thereof the City Council hereby declares an emergency to exist, and that this ordinance shall be in full force and effect immediately upon passage by the City Council and its approval by the Mayor.

Adopted by the City Council of the City of Lakeside on this 19th day of April, 1984. This ordinance shall take effect on April 19, 1984.

ATTEST:

APPROVED:

  
Bruce N. Stennett, City  
Recorder/Administrator

  
W. Van Schoyck, Mayor

19-84  
Date.

4-19-84  
Date

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