

ORDINANCE NO. 22-XX

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, AMENDING MUNICIPAL CODE CHAPTERS 3.12 (TRANSIENT OCCUPANCY TAX) AND 5.40 (TRANSIENT RENTALS OF RESIDENTIAL UNITS)

WHEREAS, the Town of Mammoth Lakes, California (“Town”) is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, the Mammoth Lakes Municipal Code (“Code”) authorizes the operation of “transient occupancy facility[ies]”, allowing for rentals of premises for periods of 30 consecutive days or less, and imposes a tax on such transient occupancies; and

WHEREAS, the Code establishes fines for violations of Chapters 3.12 and 5.40, which pertain to transient occupancy taxes and operating requirements for transient occupancy facilities, respectively; and

WHEREAS, in 2021 California law was amended through the adoption of Senate Bill 60, which amended California Government Code Section 36900 to increase the permissible fine amounts for any violation of a “short-term rental ordinance” which is an infraction, to a maximum of \$1,500 for a first violation, \$3,000 for a second violation of an ordinance within one year, and \$5,000 for each violation of the same ordinance within one year of the first violation; and

WHEREAS, Chapters 3.12 and 5.40 jointly and collectively comprise the Town’s “short-term rental ordinance” within the meaning of Section 36900, such that a violation of either chapter is a violation of the same ordinance; and

WHEREAS, the Town derives the majority of its revenue from the transient occupancy tax imposed by Chapter 3.12 of the Code, such that collection of all transient occupancy tax owed to the Town is vital in order to ensure that the Town can consider providing law enforcement, code enforcement, parks and recreation, and other services and facilities necessary to protect the public health and safety; and

WHEREAS, the purpose of Chapter 5.40 of the Code is stated in Section 5.40.010 as ensuring that “transient rental use does not create adverse impacts to neighboring properties due to excessive traffic, noise, trash, and similar issues [and] to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure or cause health and safety concerns and that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions”; and

WHEREAS, the Town Council finds that all violations of Chapter 5.40 of the Code “pose a threat to public health and safety” within the meaning of Government Code Section 36900(d)(4); and

NOW, THEREFORE, the Town Council of the Town of Mammoth Lakes, State of California, does ordain as follows:

Section 1: Municipal Code Section 3.12.280, Violation - Penalty, and Municipal Code Section 5.40.070, Violations, are hereby amended and restated to read as set forth in Exhibit A attached hereto and incorporated herein.

Section 2: POSTING

The Town Clerk shall, within fifteen (15) days after the passage of this Ordinance, cause it to be posted at the duly designated posting places established by resolution of the Town Council, published once in a newspaper of general circulation, and entered in the Book of Ordinances of the Town.

Section 3: SEVERABILITY

If any provision of this Ordinance of the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Ordinance are declared to be severable.

The foregoing Ordinance was PASSED, APPROVED, AND ADOPTED on the 16th day of November 2022.

LYNDA SALCIDO, Mayor

ATTEST:

JAMIE GRAY, Town Clerk

EXHIBIT A

3.12.280 - Violation—Penalty.

- A. Any person, including any transient, who violates any of the provisions of this chapter shall be guilty of an infraction. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, and may be punished accordingly. The foregoing notwithstanding, in the discretion of the district attorney or the town attorney, upon a showing of gravity of offense, any violation of any provision of this chapter may be prosecuted as a misdemeanor.
- B. Other than delinquent tax remittal addressed in Sections [3.12.080](#) through [3.12.120](#), any person, including any transient, who violates any provision of this chapter may be subject to administrative fines as set forth in [Chapter 8.32](#), provided that such violations shall be subject to a fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation, a fine not exceeding three thousand dollars (\$3,000) for a second violation of this chapter or Chapter 5.40 within one year, and a fine not exceeding five thousand dollars (\$5,000) for each additional violation of this chapter or Chapter 5.40 within one year of the first violation. Any violation of any provision of this chapter which occurs on more than one day shall constitute a separate violation for each day or portion thereof during which such violation occurs.
- C. Notwithstanding subsection B of this section, the \$1,500, \$3,000, and \$5,000 fines set forth therein shall not apply to: (i) a first time offense of failing to obtain a transient occupancy registration certificate or business tax certificate or pay a fee for either of those certificates; or (ii) violations committed in connection with the transient rental of a commercially operated hotel, motel, bed and breakfast inn, time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code, lodge, inn, camping site, space where camping or remaining overnight on a transient basis is permitted at a campground or recreational vehicle park, or the rental of anything that is not a “transient occupancy facility” as defined in Section 3.12.020.
- D. Town staff shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.
- E. 1. Notwithstanding subsection A of this section, any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax collector, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor.

2. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due as required by this chapter to be made is guilty of a misdemeanor.

- F. Any transient occupancy facility operated without an approved transient registration certificate or without collecting and paying transient occupancy taxes to the town as required in this chapter is a public nuisance and may be abated as provided for in [Chapter 8.20](#).

5.40.070 - Violations.

- A. A violation of any provision of this chapter, and/or the renting of any property in a zoning district that does not allow for such transient rental, or without proper land use approvals, is subject to the general penalty provisions and/or the administrative citation provisions set forth in Chapter 1.12 and Chapter 8.32 of the Municipal Code, respectively, and any other civil or administrative remedy allowed by law, provided that such violations shall be subject to a fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation, a fine not exceeding three thousand dollars (\$3,000) for a second violation of this chapter or Chapter 3.12 within one year, and a fine not exceeding five thousand dollars (\$5,000) for each additional violation of this chapter or Chapter 3.12 within one year of the first violation.
- B. Notwithstanding Chapter 1.12 and subsection A of this section, the administrative fine for the operation of any transient occupancy facility without a valid business tax certificate shall be five hundred dollars for the first violation.
- C. Notwithstanding subsection A of this section, the \$1,500, \$3,000, and \$5,000 fines set forth therein shall not apply to: (i) a first time offense of failing to obtain a transient occupancy registration certificate or business tax certificate or pay a fee for either of those certificates; or (ii) violations committed in connection with the transient rental of a commercially operated hotel, motel, bed and breakfast inn, time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code, lodge, inn, camping site, space where camping or remaining overnight on a transient basis is permitted at a campground or recreational vehicle park, or the rental of anything that is not a “transient occupancy facility” as defined in Section 3.12.020.
- D. Town staff shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

- E. Non-compliance by an operator of the requirements for registration and operation of transient rental units may result in the revocation of the business tax certificate authorizing the use, and no new business tax certificate may be issued to the same licensee for operation of a transient occupancy facility for a period of twelve months following such revocation.