

THIRD AMENDED BY-LAWS OF
MAMMOTH LAKES TOURISM
A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION

ARTICLE I
NAME; PRINCIPAL OFFICE

1.01 Name. The name of this corporation is **Mammoth Lakes Tourism** (“the Corporation”).

1.02 Office. The principal office of the Corporation shall be in a place within the Town of Mammoth Lakes that is designated by the Board of Directors from time to time.

1.03 Definitions. Unless otherwise specified in context, the terms used in these By-Laws shall have the following definitions:

- a. **“Board”** means the Board of Directors of the Corporation.
- b. **“Chairperson”** means the Chairperson of the Board.
- c. **“Corporation”** means Mammoth Lakes Tourism, a California non-profit mutual benefit corporation.
- d. **“Director”** means a member of the Board of Directors unless otherwise specified in the context.
- e. **“Executive Director”** means the Executive Director of the Corporation appointed by the Board.
- f. **“Officer”** means an Officer of the Corporation and may refer to the Chairperson, Vice-Chairperson, Secretary or Treasurer, depending on the context.
- g. **“Secretary”** means the Secretary of the Board and of the Corporation.
- h. **“Town”** means the Town of Mammoth Lakes, California.
- i. **“Treasurer”** means the Treasurer of the Board and the Chief Financial Officer of the Corporation.
- j. **“Vice-Chairperson”** means the Vice-Chairperson of the Board.

ARTICLE II
PURPOSES

2.01 Organization and Purpose. The Corporation is a non-profit mutual benefit corporation organized under the Non-Profit Mutual Benefit Corporation Law (California Corporations Code Section 7110, *et seq.*). The purpose of the Corporation is to engage in any lawful act or activity, other than the credit union business, for which a corporation may be organized under such law.

2.02 Further Purpose. The further purpose of the Corporation is to engage in such activities as are meant to improve the tourism industry in the Town.

2.03 Activities. The Board or the Executive Director may from time to time identify specific activities meant to be carried out for the foregoing purposes.

ARTICLE III
INCOME TAX STATUS; LIMITATIONS

3.01 Income Tax Exemptions. The Corporation shall have the status of a corporation that is exempt from federal income taxation pursuant to Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(6) of such Code, and that is exempt from state income taxation pursuant to Section 23701e of the California Revenue and Taxation Code.

3.02 Construction. These By-Laws shall be construed in a manner consistent with these tax laws and their implementing rules and regulations, and all activities of the Corporation shall be limited accordingly.

3.03 Limitations. The Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers not in furtherance of the foregoing purposes of the Corporation. The Corporation shall not engage in or facilitate activities that violate federal or state laws.

ARTICLE IV
BOARD OF DIRECTORS

4.01 Board Composition. The Board shall be composed of a minimum of seven (7) and a maximum of nine (9) Directors. There are three (3) appointed positions without terms as detailed below, and up to six (6) termed positions. The nine (9) Board seats will be composed as follows:

Appointed Positions (no terms)

- One Representative of the Mammoth Lakes Chamber of Commerce (appointed by the Chamber of Commerce)
- One Representative of the Mammoth Mountain Ski Area (appointed by Mammoth Mountain Ski Area)
- One Representative of the Mammoth Lakes Town Council (appointed by Town Council)
Define termed positions – TBID representation must include Lodging, Restaurant, Retail, and Ski Area

Termed Positions (either 2- or 3-year terms as noted)

- Two Lodging Representatives (one 2-year term, one 3-year term)
- One Restaurant Representative (3-year term)
- One Retail Representative (3-year term)
- One Cultural Arts/Special Events Representative or At Large representative (2-year term)
- One “at large” representative (2-year term) who must hold a business license in the Town of Mammoth Lakes)

4.02 Qualifications and Requirements. Each Director shall reside within the Mammoth Lakes area and shall have a business interest in the Town and shall demonstrate a working knowledge of the tourism industry as it relates to the Town. All non-appointed Director Positions shall be (or represent businesses that are) in good standing with the Town of Mammoth Lakes, with current business license, paid taxes and assessments, and no pending code enforcement actions.

4.03 Nominating Committee. The Board shall appoint an ad hoc Nominating Committee composed of three of its members. The Nominating Committee may appoint two or more persons or tourism leaders who may participate or assist in the interview process. An existing Director may be re-nominated. All persons so nominated shall meet the qualifications specified in Section 4.02.

4.04 Nomination Process.

- a. Lodging Representatives. The Mammoth Lakes Lodging Association will contact its members when a seat is available. Mammoth Lakes Lodging Association will interview and nominate candidates for the Board’s review and final approval at a regular Board meeting.
- b. Restaurant, Retail, Cultural Arts/Special Events, and At-Large Representatives. MLT will publish a notice of open seats and seek candidates. The Nominating Committee will interview potential candidates and present their recommendations to the full Board for final approval at a regular Board meeting.

4.05 Elections.

- a. Nominations for open Board positions will be made as needed.
- b. Interviews for open Board positions will take place as needed.
- c. Candidates for open Board positions will be voted on as needed.
- d. Newly elected Board Members will attend their first Board meeting following approval.

4.06 Powers. General Powers of Board. Subject to the provisions and limitations of the California Nonprofit Benefit Corporation Law and any other applicable laws, and subject to any limitations of the

articles of incorporation or bylaws regarding actions that require approval of the members, the corporation's activities and affairs shall be managed, and all corporate powers shall be exercised, by or under the direction of the Board. In addition to the foregoing powers, and any set forth in other sections of these Bylaws, the Board shall have the following powers:

- a. to select and remove Officers of the Board, and to prescribe the terms, powers, and duties of the Officers.
- b. to select the Executive Director and to prescribe his or her compensation, term, powers, and duties; to hire employees and consultants to the extent the Executive Director is not authorized to do so; to enter into contracts for services of the Executive Director, consultants and employees.
- c. to conduct and control the business, financial, legal, personnel management and other affairs of the Corporation.
- d. to designate the times and places for the holding of meetings of the Board and of the members of the Corporation.
- e. to change the name of the Corporation.
- f. to borrow money and execute and deliver in the corporate name such promissory notes and security instruments as are necessary to facilitate the incurring of debt.
- g. to accept and provide grants.
- h. to appoint such ad hoc committees as are deemed necessary to facilitate the purposes of the Corporation (the make-up of the committees may include, at the discretion of the Board, members of the Board, participating community members, and/or third parties).
- i. to compensate members of the Board and employees for expenses incurred in carrying out the business of the Corporation.
- j. to contract for such insurance coverage as it deems necessary, including, but not limited to, Director liability coverage.

4.07 Removal. A Director may be removed for cause because of misconduct, harassment, conduct unbecoming of a Board member, nonpayment of TBID assessments, failure by that Director to attend a third of the regular meetings held over the course of one year and/or three consecutive meetings of the Board, and for criminal action or legal issues regarding that Director's employment, as a community member, or with his/her representing agency. Removal shall be by a majority vote of the remaining entire Board of Directors. If a Director is so removed, the Board shall then or at its next meeting, appoint a Director to replace the removed Director, with the appointee to serve out the term of the removed Director.

In the case of criminal action or legal issues, the representing agency has the right to approach the Board in closed session to recommend immediate termination.

4.08 Procedures. Meetings of the Board shall be governed by Rosenberg’s Rules of Order, as interpreted on any given question by the Chairperson.

4.09 Board Majority: The following issues require approval of a majority of the entire Board of Directors then in office and not a majority of a quorum:

- a. Budget approval.
- b. Removal of Director or Executive Director.
- c. Approval of the Bylaw.
- d. Approval of the contract with the Town of Mammoth Lakes.

4.10 Quorum. A majority of the members of the Board then in office shall constitute a quorum for the transaction of business at regular or special meetings. Except as otherwise provided in these Bylaws, a vote of a majority of the members of the quorum shall apply to any matter on which a vote is taken and shall constitute an action of the Board. In the case of a tie vote, the motion fails.

4.11 Meetings. Time and place of Board meetings will be set by Board resolution.

4.12 Open Meeting Law. The Board will comply with the Ralph M. Brown Act (Gov. Code, § 54950 et seq.).

4.13 Public Records Law. The Board will comply with the California Public Records Act (Gov. Code, § 7920.000 et seq.)

ARTICLE V

RESPONSIBILITIES OF OFFICERS

5.01 Terms of Officers. Notwithstanding any other provisions of these Bylaws, all officers of the Board shall serve at the pleasure of the Board and may be removed and/or replaced by a vote of the majority of a quorum of the Board at any time.

5.02 Chairperson. Subject to the control of the Board, the Chairperson shall generally supervise the business of the Corporation, preside at meetings of the Board, appoint ad hoc committees and chairs, and carry out such other duties as are prescribed by the Board. The Chairperson must serve as a director for one (1) year on the Board before becoming Chairperson. The term of the Chairperson shall be for one (1) year. The Board may re-elect the Chairperson for consecutive term(s).

5.03 Vice-Chairperson. The Vice-Chairperson shall carry out the duties of the Chairperson in the absence of the latter, together with such other duties as are prescribed by the Board or the Chairperson. The Vice-Chairperson must serve as a director for one (1) year on the Board before becoming Vice-Chairperson. The term of the Vice-Chairperson shall be for one (1) year, and the Board may re-elect such officer for consecutive term(s).

5.04 Secretary. The Secretary shall keep and maintain a record of minutes of all meetings of the Board called by the Board or prescribed by these By-Laws, be the custodian of corporate records other than financial records and carry out such other duties as are prescribed by the Board or the Chairperson. In the absence of both the Chairperson and Vice-Chairperson the Secretary will preside over meetings of the Board. The term of the Secretary shall be for one (1) year, and the Board may re-elect such officer for consecutive term(s). The Executive Director or Board may approve an appointed recorder to support the Secretary's position, however not including at any closed session meetings.

5.05 Treasurer. The Treasurer shall be the chief financial officer of the Corporation, review such financial reports as are required by the Board, and carry out such other duties as are prescribed by these By-Laws or by the Board or the Chairperson. In the absence of the Chairperson, Vice-Chairperson and Secretary, the Treasurer will preside over meetings of the Board. The term of the Treasurer shall be for one (1) year, and the Board may re-elect the Treasurer for consecutive term(s). The Treasurer shall work with the Executive Director and Board appointed certified public accounting firm, which firm will prepare financial reports and annual audits and will be the custodian of the financial records of the Corporation.

5.06 Election. The election of Officers shall take place at the first meeting of each fiscal year in July.

ARTICLE VI

EXECUTIVE DIRECTOR

6.01 Appointment. There shall be an Executive Director, who shall be appointed by the Board on such terms and conditions as are approved by the Board. The Executive Director may be a regular employee of the Corporation or may be hired as an at will contract employee.

6.02 Authority. The Executive Director, operating under the control of the Board, shall have full administrative authority to direct the operations of the Corporation in a manner consistent with applicable state and federal laws, rules and regulations, these By-Laws, and such policies, programs, and procedures as are from time to time adopted and prescribed by the Board.

6.03 Qualifications. A job description for the position of Executive Director shall be adopted by the Board and reviewed as needed or deemed necessary by the Board. Final selection of the Executive Director shall be by the Board.

6.04 Absence. In the case of the absence of the Executive Director or any inability to carry out the duties of the office, such duties shall be carried out as directed by the Chairperson with the consent of the Board.

6.05 Personnel Management. The Executive Director shall hire, terminate where necessary, and supervise employees, contractors, and agents of the Corporation in a manner consistent with the personnel policies, employee handbook, and directives adopted by the Board. Contracts for all such personnel shall be approved by the Board before taking effect. The Executive Director shall immediately notify the Board of any employee termination or departure.

6.06 Budget. The Executive Director shall be responsible for the preparation of the annual budget of the Corporation, to be completed at such time and in such a manner as is directed by the Board.

6.07 Compliance. In addition to such other duties as are prescribed by the Board, the Executive Director shall be familiar with and assure compliance by the Corporation with the California Non-profit Mutual Benefit Corporations law (Government Code Sections 7110, *et. seq.*), and with the provisions of the Ralph M. Brown Act and California Public Records Act.

ARTICLE VII **FISCAL MATTERS**

7.01 Fiscal Year. Unless otherwise designated by the Board, the fiscal year of the Corporation shall commence on July 1 and end on June 30th of next year.

7.02 Records. The Board, acting by and through the Treasurer, or his or her designee, shall keep accurate records and accounts of the business of the Corporation in such a manner as will allow the records to be delivered from time to time in printed form.

7.03 Reports. The Board shall direct the preparation of, and adopt, an annual report pursuant to Streets and Highways Code section 36650 disclosing the fiscal affairs of the Corporation. The report shall be available to any persons or entities approved by the Board.

7.04 Budget. On or before sixty days prior to the next fiscal year, the Board shall adopt an annual budget for that year. Any expenditure outside of the adopted budget exceeding \$25,000.00 needs to be approved by a majority vote of the Board.

ARTICLE VIII **LIABILITY LIMITATIONS**

8.01 Liability. Nothing in these By-Laws or in any document related to the Corporation shall have the effect of causing Officers, Directors, employees, or agents of the Corporation to be partners as a matter of law. No Officer, Director, employee, or agent of the Corporation shall be liable for any acts or failures to act of the Corporation and/or its Officers, Directors, employees, or agents.

8.02 Director Liability. The liability of the Director for monetary damages shall be eliminated to the fullest extent allowed by law. No modification of the provisions of these By-Laws, and no action of the Board or Corporation, shall adversely affect any right or protection of a Director. The Board shall carry D&O liability coverage for the Board of Directors.

ARTICLE IX
CONFLICTS OF INTEREST

9.01 Prohibition. No Director, Officer, contracting party, or employee of the Corporation (collectively an “interested person”) shall participate in any act which constitutes a conflict of interest as defined in this Article.

9.02 Definition. An interested person has a conflict of interest if the interested person may directly benefit from an action taken by the Corporation or the Board. A direct benefit means a benefit to the interested person which is different from or in addition to a benefit or benefits which would generally accrue to persons or entities involved in the tourism industry in the Town.

9.03 Further Definitions. In addition to the foregoing and to any other conflicts of interest that may be described by the Board by resolution, the following constitute conflicts of interest. The interested person:

- a. is a party to, or owns (in whole or in part, excepting stock corporations) a business which is a party to, a contract or involved in a transaction with the Corporation.
- b. has a material financial interest in a transaction between the Corporation and an entity in which he or she is a director, officer, agent, or employee.
- c. has a material financial interest in or is a director, officer, agent or employee of any person or entity that competes with the Corporation.

A “material financial interest” is a financial interest of any kind such that it would, or reasonably would be expected to, affect an interested person’s judgment with respect to actions related to the Corporation.

9.04 Contractual Compliance. The Board will abide by all contractual provisions related to conflicts of interest in its operating agreement with the Town of Mammoth Lakes

ARTICLE X
MISCELLANEOUS

10.01 Dedication of Assets. The properties and assets of the Corporation are irrevocably dedicated to the purposes of the Corporation as set forth in these By-Laws. No part of the net earnings, properties, or assets of the Corporation, on dissolution or otherwise, shall inure to the benefit of any private person, or any Director. On liquidation or dissolution, all properties and assets shall be distributed to one or more non-profit entities organized in whole or in part for the purpose of promoting tourism in the Town. Any such entity shall have established its tax-exempt status under Section 501(c)(6) of the Internal Revenue Code. If no such entity exists, the assets and properties shall be distributed in a manner consistent with applicable provisions of the California Nonprofit Mutual Benefit Corporations law.

10.02 Inspection of Records. The records of the Corporation shall be open for inspection for legitimate purposes by Directors during regular office hours.

CERTIFICATION

The undersigned hereby certifies:

That I am the duly elected and acting Secretary of the Corporation.

That the foregoing Third Amended By-Laws constitute the By-Laws of the Corporation, duly adopted by the Board of Directors of the Corporation at its regular meeting of _____, 2023.

IN WITNESS WHEREOF, I certify the same on _____, 2023.

SECRETARY OF THE CORPORATION