

~~FIRST~~THIRD AMENDED BY-LAWS OF

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MAMMOTH LAKES TOURISM
A CALIFORNIA NON-PROFIT MUTUAL BENEFIT CORPORATION

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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:

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a. **"Board"** means the Board of Directors of the Corporation.

b. **"Chairperson"** means the Chairperson of the Board ~~and President of the Corporation.~~

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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.

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f. **"Officer"** means an Officer of the Corporation and may refer to the Chairperson, Vice-Chairperson, Secretary or Treasurer, ~~depending on the context.~~

~~g. "Open Meeting Law" means the Ralph M. Brown Act (California Government Code Sections 54950, et. seq.).~~

~~h. "President" means the Chairperson of the Board and the President of the Corporation.~~

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~~i.g.~~ **"Secretary"** means the Secretary of the Board and of the Corporation.

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~~j.h.~~ **"Town"** means the Town of Mammoth Lakes, California.

k.i. “Treasurer” means the Treasurer of the Board and the Chief Financial Officer of the Corporation.

k.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. ~~All termed position candidates are recommended by the designated association to the ad hoc nominating committee (See 5.03). Individuals can submit interest solely through the same nominating committee process. The nominating committee will recommend to the MLT Board their recommendations for discussion and vote. All term positions to be filled by the MLT Board.~~ The nine board(9) Board seats will be composed as follows:

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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 the business Mammoth Mountain Ski Area)
 - One Representative of the Mammoth Lakes Town Council designee (either a (appointed by Town Council Member or) Town Manager)
- 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 ~~substantial~~ 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.

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4.03 Nominating Committee. The Board shall appoint an ad hoc Nominating Committee composed of ~~4.03~~ 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 ~~54.02~~.

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~~Vacancy. If~~

4.04 Nomination Process.

~~4.04 a vacancy occurs on the Board due to resignation, death, end of term or other cause, the Nominating Committee shall~~

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- ~~1) seek another appointment from the respective organization/company if it's a standing seat, or~~
- ~~2) appoint a new Director by following the Nominating Committee process (see 4.03) If an appointing company or organization desires to change, Lodging Representatives. The Mammoth Lakes Lodging Association will contact its representative prior to the fiscal year election, a change needs to be submitted in writing to the Board stating the change, reason, members when a seat is available. Mammoth Lakes Lodging Association will interview and time frame nominate candidates for the record. Based on projects or subcommittee involvement, the member being replaced may continue at Board discretion Board's review and final approval of the standing organization/company,~~

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~~however, voting rights would go to the newly appointed Board member. If a Board member change affects the Chair or Vice chairperson positions, new officers must be elected for the remainder of the fiscal year and noted in the minutes to follow sections 5.01 and 5.02. If a member leaving the board for any reason stated above is not in good standing with the representing agency, a at a regular Board meeting would be held in executive session for discussion around immediate termination of a Board Member in regard to committee or project involvement. In the case of criminal action or legal issues, the representing agency has the right to approach the Board in executive session to recommend immediate termination. Final determinations to be made by the current Board of Directors.~~

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~~An incoming or changed board member shall serve out the remaining term of the vacating board member to keep the current cycle and turnover of Directors.~~

~~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:

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- a. Nominations for open ~~board~~Board positions will be made ~~in March~~as needed.
- b. ~~interviews~~Interviews for open ~~board~~Board positions will take place ~~in April and May~~as needed.
- c. ~~candidates~~Candidates for open ~~board~~Board positions will be voted on ~~in June~~as needed.
- d. ~~newly~~Newly elected ~~board members~~Board Members will attend their first ~~board~~Board meeting ~~in July~~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, ~~who shall include a Chairperson, Vice Chairperson, Secretary, and Treasurer,~~ and to prescribe the terms, powers, and duties of the ~~officers~~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.

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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. Vacancies shall be filled as determined in section 4.04. 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: ~~1. Budget approval; 2. Removal of Director or Executive Director; 3. Termination of a multi-year contract.~~

- 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 ~~4.10~~ 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 event case of a tie vote, the Chairperson's vote will break the tie. motion fails.~~

~~4.10 — Meetings. Regular meetings of the Board shall be held not less than once each calendar month at a time and place specified by the Board. Special meetings of the Board or the Members may be held at such times and places as are specified by the Board. Meetings may be adjourned to such times and places as are designated by the Chairperson.~~

~~4.11 — Open Meeting Law. The provisions of the Open Meeting Law shall apply to the Board and the Corporation when applicable under the circumstances.~~

~~4.12 — Agendas; Notices; Minutes and Records. The Board shall adopt agenda, notice, minutes, and records requirements for meetings of the Board in accordance with the Open Meeting Law.~~

~~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.

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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~~Board before becoming Chairperson. The term of ~~this officer~~the Chairperson shall be for one (1) year. The Board may re-elect the Chairperson for ~~not more than two (2) consecutive terms~~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~~Board. The term of the Secretary shall be for one (1) year, and the ~~board~~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 ~~Executive Session~~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~~Board. The term of ~~this officer~~the Treasurer shall be for one (1) year, and the ~~board~~Board may re-elect ~~this officer~~the Treasurer for consecutive term(s). The Treasurer shall work with the Executive Director and Board appointed CPA 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.

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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 ~~Chairperson prior to termination~~ 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 ~~Government Code Sections 8320-24 relating to required records~~ the Ralph M. Brown Act and ~~reports.~~ 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.

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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.

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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, ~~a business which he owns or operates, his spouse or any member of his family,~~ 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 an action related to the Corporation.

~~9.04 Gifts.~~ No Director or Officer shall accept a gift or gratuity from any person or entity that is involved in the tourism industry in the Town unless that gift or gratuity is generally made available to other persons in the industry.

~~9.05 Form 700.~~ All Board Members must sign, annually, a Form 700 to be kept on file by the Secretary.

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.

~~10.03 Amendments.~~ These By-Laws may be amended by a majority vote (five votes) of the Directors.

CERTIFICATION

The undersigned hereby certifies:

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

~~That the foregoing First~~ 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 _____, 2019~~2023~~.

IN WITNESS WHEREOF, I certify the same on _____, 2019~~2023~~.

SECRETARY OF THE CORPORATION