

FULL TEXT

TOWN OF MAMMOTH LAKES MEASURE Z INITIATIVE TO REQUIRE VOTER APPROVAL TO ALTER TRANSIENT RENTAL ZONING IN RESIDENTIAL NEIGHBORHOODS

The people of the Town of Mammoth Lakes do hereby ordain as follows:

SECTION 1: PURPOSE AND FINDINGS

A. Purpose and Effect: The purpose of this initiative is to ensure the Town Council must obtain voter approval before changing the Town's current limits on transient uses in the Residential Single Family (RSF), Rural Residential (RR), and Residential Multiple Family (RMF-1) residential zones and to require voter approval of any changes to those limits.

The Town of Mammoth Lakes Municipal Code (Town Code) currently prohibits transient rentals of single-family homes as well as hotels and motels in the RSF, RR and RMF-1 zones. Bed and Breakfast uses are not permitted in the RSF zone, allowed only by use permit in the RR zone, and allowed without a permit in the RMF-1 zone. Group Living Quarters are not permitted in the RSF and RR zones and require a use permit in the RMF-1 zone.

The Initiative to Require Voter Approval to Alter Transient Rental Zoning in Residential Neighborhoods (Initiative) amends the Town of Mammoth Lakes General Plan to make these transient use limits more explicit and amends provisions of the Town Code to reaffirm these limits and require voter approval of any changes to the limits. A map showing the lands zoned as RSF, RR and RMF-1 in the Zoning Map and designated as LDR-1, LDR-2, and HDR-1 in the General Plan Land Use Diagram is included for illustrative purposes as Attachment 1 to this Initiative and incorporated by reference.

This Initiative does not affect existing ordinance provisions allowing transient rental of single-family homes and other transient uses outside of the RSF, RR and RMF-1 zones (such as in the Resort and RMF-2 zones) and does not require voter approval of any changes to those provisions. At the time the No Ice of Intent to propose this Initiative was submitted, the Town was considering zoning ordinance amendments concerning use permit requirements for transient rentals in the RMF-2 zone; this measure does not apply to transient rentals in the RMF-2 zone.

B. Findings: The people of the Town of Mammoth Lakes find that this Initiative promotes and protects the health, safety, welfare, and quality of life of Town residents, based upon the following findings:

1. The Town of Mammoth Lakes has long prohibited transient rentals and limited other transient uses in predominantly single-family low density neighborhoods through requirements found in sections 17.148.020 and 17.20.010 of the Town Code (and former code sections 17.08.510 and 17.16.030 before the comprehensive zoning amendments that took effect April 2, 2014). The Town Code's definitions of the terms "Transient Occupancy or Rental," "Hotels and Motels," "Bed and Breakfast," and "Group Living Quarters" as of December 31, 2014 are set forth in Attachment 2 to this Initiative and incorporated by reference.

2. The existing prohibition on transient rental of single-family homes in predominantly single-family low density neighborhoods and other limits on transient uses promote a vibrant community and protect the character, stability, public safety and quality of life in those neighborhoods while promoting suitable community housing.

SECTION 2: TOWN CODE AMENDMENTS

This Initiative hereby amends certain provisions of the Town of Mammoth Lakes Municipal Code (Town Code). Text to be inserted in the Town Code is indicated in bold underlined type (example). Text in standard type appears in the Town Code as of February 13, 2015 (Submittal Date) and is not changed by this Initiative.

A. In Chapter 17.20, Residential Zoning Districts, amend section 17.20.010 as follows:

17.20.010 Purpose

In addition to the objectives outlined in Section 17.04.020, the specific purposes of the Residential Zoning Districts are to:

A. To reserve appropriately located areas for residential use at various ranges of dwelling unit densities and types consistent with the general plan and with sound standards of public health, safety and welfare;

B. To ensure adequate light, air, privacy and open space for each dwelling;

C. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive bulk or number in relation to the land area around them and the ability of the local infrastructure to support them;

D. To protect residential properties from incompatible noise, illumination unsightliness, odors, smoke and other objectionable influences; and

E. To facilitate the provision of utility services and other public facilities commensurate with anticipated population, dwelling unit densities and service requirements.

Additional purposes of the individual Residential Zoning Districts are as follows.

RR (Rural Residential) District. This zoning district is intended as an area for single-family rural residential development with larger lots and lower density than the residential single-family zone. **Transient Occupancy or Rental, Hotels and Motels, and Group Living Quarters uses are not permitted in this zone. Bed and Breakfast uses are permitted only with a use permit.** Uses permitted are those that are complementary to, and can exist in harmony with, a rural residential neighborhood.

RSF (Residential Single-Family) District. This zone is intended as an area for single-family residential development. **Transient Occupancy or Rental, Hotels and Motels, Bed and Breakfast, and Group Living Quarters uses are not permitted in this zone.** Only those uses are permitted that are complementary to, and can exist in harmony with, a residential neighborhood.



RMF-1 (Residential Multiple-Family) District. This zone is intended as an area for the development of mixed residential uses (single-family dwellings, apartments, and other multiple family developments). Transient Occupancy or Rental and Hotel and Motel uses are not permitted in this zone. Group Living Quarters uses are permitted only with a use permit. Bed and Breakfast uses are permitted. Only those uses are permitted that are complementary to, and can exist in harmony with, such residential developments.

RMF-2 (Residential Multiple-Family) District. This zone is intended as an area for the development of primarily multiple-family developments. Transient occupancy shall be permissible in this zone subject to the issuance of a use permit. Only those uses are permitted that are complementary to, and can exist in harmony with, such residential developments.

As used in the descriptions of the RR, RSF, and RMF-1 zoning districts above, the terms "Transient Occupancy or Rental," "Hotels and Motels," "Bed and Breakfast," and "Group Living Quarters" shall have the definitions set forth in the Town of Mammoth Lakes Municipal Code (Town Code) as of December 31, 2014 in sections 17.148.020, 17.144.050, and 17.144.020, respectively.

The limitations on Transient Occupancy or Rental, Hotels and Motels, Bed and Breakfast, and Group Living Quarters in the RR, RSF, and RMF-1 Zoning Districts set forth above (Transient Use Limits) together with this and the immediately preceding paragraph were adopted by the Initiative to Require Voter Approval to Alter Transient Rental Zoning in Residential Neighborhoods (Initiative). Voter approval (as defined below) is required for any amendment or repeal of (i) the Transient Use Limits, (ii) this or the immediately preceding paragraph, or (iii) the changing of the zoning of land zoned as RR, RSF or RMF-1 as of December 31, 2014 unless the new zoning maintains the Transient Use Limits applicable to the land being rezoned. Voter approval is not required for amendments to the Town Code that would not affect the Transient Use Limits. Voter approval is not required for amendments to the Town Code definitions referenced above, provided, however, that the definitions in place as of December 31, 2014 shall apply to the Transient Use Limits. No use permit, modification to use a permit, or other entitlement shall be granted, extended, or enforced, though action or inaction, that is inconsistent with the provisions of the Initiative. "Voter Approval" for purposes of this code section means a majority of the voters voting on a proposed amendment or repeal, voting in favor of the proposed amendment or repeal.

SECTION 3: GENERAL PLAN AMENDMENTS

This Initiative hereby amends the Town of Mammoth Lakes General Plan ("General Plan"), as amended through the submittal date. Text to be inserted in the General Plan is indicated in bold underlined type (example). Text in standard type appears in the General Plan as of the submittal date and is not changed by this Initiative.

A. The General Plan Land Use Element, Policy L.5.B is hereby amended as follows:

L.5.B. Policy: Locate visitor lodging in appropriate areas. Transient occupancy use shall not be allowed in areas designated, as of December 31, 2014, as Low-Density Residential 1 (LDR-1), Low-Density Residential 2 (LDR-2), or High-Density Residential 1 (HDR-1), except that in areas designated as LDR-1 bed and breakfast uses may be allowed subject to a use permit and in areas designated as HDR-1 bed and breakfast uses may be allowed and group living quarters may be allowed subject to a use permit. The terms used in this policy shall be defined as follows:

(1) Transient occupancy use means a structure, or portion of a structure, which is occupied, used, or intended or designed for occupancy by persons for purposes of sleeping, lodging, or similar reasons for a period of 30 consecutive days or less in exchange for a fee or similar consideration. This includes but is not limited to hotels, motels, and fractional time share developments and homes or portions of homes used for such purposes, bed and breakfasts, and group living quarters.

(2) Bed and Breakfast means a residential structure that is in residential use with one or more bed rooms rented for overnight lodging and where meals may be provided.

(3) Group Living Quarters means shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis.

The limits on transient occupancy set forth in this Policy L.5.B affirm longstanding Town policy and were adopted by the Initiative to Require Voter Approval to Alter Transient Rental Zoning in Residential Neighborhoods. The limits may not be amended or repealed except by a vote of the people with a majority of the voters voting on the proposed amendment or repeal voting in favor of such proposed amendment or repeal, except that land designated LDR-1, LDR-2, and HDR-1 as of December 31, 2014 may be re-designated without voter approval if the new designation maintains the limits on transient occupancy applicable to the land being re-designated.



SECTION 4: EXEMPTIONS FOR CERTAIN PROJECTS

A. This Initiative shall not apply to (1) any project that has obtained as of the effective date of the Initiative a vested right pursuant to state or local law or (2) any land that, under state or federal law, is beyond the power of the local voters to affect by the initiative power reserved to the people via the California Constitution.

B. In the event a property owner contends that application of this Initiative effects an unconstitutional taking of property, the property owner may request, and the Town Council may grant, an exception to application of any provision of this Initiative if the Town Council finds, based on substantial evidence, that both (1) the application of any aspect of this Initiative would constitute an unconstitutional taking of property, and (2) the exception will allow additional or continued land uses only to the minimum extent necessary to avoid such a taking.

SECTION 5: IMPLEMENTATION

A. **Effective Date:** Upon the effective date of this Initiative, (1) the provisions of Section 3 of the Initiative are hereby inserted into the Town of Mammoth Lakes General Plan, as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by State law for any given calendar year have already been utilized in the year in which the Initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the Town of Mammoth Lakes General Plan on January 1 of the next year; and (2) the provisions of Section 2 of the Initiative are hereby inserted into the Town Code as an amendment thereof. Upon the effective date of this Initiative, any provisions of the Town Code or of any other Town of Mammoth Lakes ordinance or resolution that are inconsistent with the General Plan amendments and Town Code amendments adopted by this Initiative shall not be enforced in a manner inconsistent with this Initiative. Nothing herein shall prevent the Town from enforcing the Town's right to collect transient occupancy tax from parties engaging in illegal transient uses.

B. **Interim Amendments:** The date that the notice of intention to circulate this Initiative was submitted to the elections official of the Town of Mammoth Lakes is referred to in this Initiative as the "submittal date." The Town of Mammoth Lakes General Plan in effect on the submittal date as amended by this Initiative comprises an integrated, internally consistent, and compatible statement of policies for the Town of Mammoth Lakes. In order to ensure that nothing in this Initiative measure would prevent the General Plan from being an integrated, internally consistent, and compatible statement of the policies of the Town of Mammoth Lakes, as required by State law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the General Plan that is adopted between the submittal date and the date that the General Plan is amended by this Initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the General Plan provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the General Plan. Likewise, any amendment to the Town Code that is adopted between the submittal date and the date that the Town Code is amended by this Initiative shall, to the extent that such interim-enacted provision is inconsistent with the Town Code provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the Town Code.

C. **Other Town Ordinances and Policies:** The Town of Mammoth Lakes is hereby authorized and directed to amend the Town of Mammoth Lakes General Plan, all specific plans, the Town Code, including the Zoning Code and other ordinances and policies affected by this Initiative as soon as possible as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the General Plan, all specific plans, and other Town ordinances and policies.

D. **Reorganization:** The General Plan and Town Code may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the General Plan and Town Code, provided that the provisions of this Initiative shall remain in the General Plan and Town Code unless earlier repealed or amended by vote of the people of the Town of Mammoth Lakes.

E. **Implementing Ordinances:** The Town Council is authorized, after a duly noticed public hearing, to adopt implementing ordinances, guidelines, rules, and regulations, as necessary, to further the purposes of this Initiative.

F. **Enforcement and Defense of Initiative:** The Town Council shall take all steps reasonably necessary to enforce this Initiative and to defend it against any challenge to its validity.

G. **Project Approvals:** Upon the effective date of this Initiative, the Town of Mammoth Lakes and its departments, boards, commissions, officers and employees, shall not grant, or by inaction allow to be approved by operation of law, any general plan amendment, rezoning, specific plan, subdivision map, use permit, amended use permit, building permit, or any other entitlement, that is inconsistent with this Initiative.

SECTION 6: EFFECT OF ALTERNATIVE MEASURE ON THE SAME BALLOT

If a measure that addresses transient occupancy on lands zoned RSF, RR or RMF-1 in the Town Code or conflicts with any provision of this Initiative is placed on the same ballot as this Initiative and if both measures should pass then the measures shall be deemed to be complementary to each other to the maximum extent permitted by law. To that end, the provisions of this Initiative shall be fully adopted except to the extent that specific provisions contained in each measure are deemed to be in direct conflict with each other on a "provision by provision" basis (pursuant to *Yoshisato v. Superior Court* (1992) 2 Cal.4th 978), in which case the conflicting provisions from the measure which received the greater number of votes shall prevail. A provision of a measure on the same ballot as this Initiative that authorizes any use that is inconsistent with the Transient Use Limits described in section 2 of this Initiative (and the comparable limits described in section 3) on any land subject to those limits shall be deemed to be in direct conflict with any provisions of this Initiative that would not allow such use on such land only with respect to the land and the use affected so that in the event the conflicting provision of a measure on the same ballot as this Initiative receives the greater number of votes, that provision shall take effect and the Transient Use Limits in this measure shall also take effect as to land subject to the Transient Use Limits and uses not addressed by the competing measure, and in the event the conflicting provision of a measure on the same ballot as this Initiative receives the fewer number of votes, that provision shall not take effect.



SECTION 7: SEVERABILITY AND INTERPRETATION

This Initiative shall be interpreted so as to be consistent with all applicable Federal, State, and Town laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application. This Initiative shall be broadly construed in order to achieve its purpose. Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative.

Attachments

Attachment 1 - Diagram showing the location of lands zoned as RSF, RR and RMF-1 in the Town of Mammoth Lakes Municipal Code and designated as LDR-1, LDR-2, and HDR-1 in the General Plan Land Use Diagram, as of December 31, 2014.

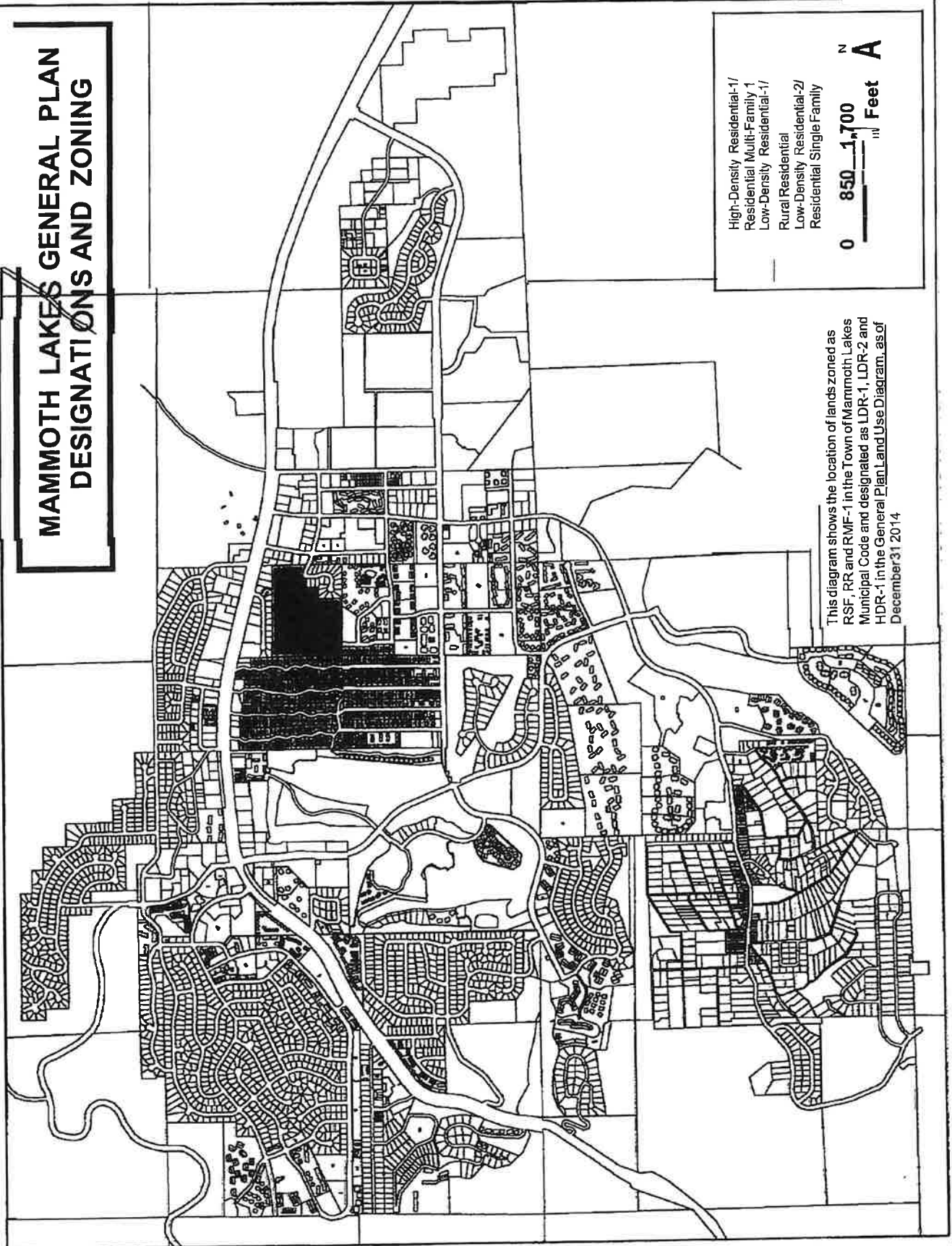
Attachment 2 - Excerpts of certain relevant provisions of the Town of Mammoth Lakes Municipal Code, as of December 31, 2014.

ATTACHMENT 1

The map shown on page 26-505 indicates the location of lands zoned as RSF, RR and RMF-1 in the Town of Mammoth Lakes Municipal Code and designated as LDR-1, LDR-2, and HDR-1 in the General Plan Land Use Diagram, as of December 31, 2014.



MAMMOTH LAKES GENERAL PLAN DESIGNATIONS AND ZONING



This diagram shows the location of lands zoned as RSF, RR and RMF-1 in the Town of Mammoth Lakes Municipal Code and designated as LDR-1, LDR-2 and HDR-1 in the General Plan Land Use Diagram, as of December 31 2014

