

Chapter 3.12 - TRANSIENT OCCUPANCY TAX

Sections:

3.12.010 - Title.

The ordinance codified in this chapter shall be known as "the uniform transient occupancy tax ordinance of the town of Mammoth Lakes."

(Ord. 91-10 § 1(part), 1991)

3.12.020 - Definitions.

For the purposes of this chapter, the following words shall have the meanings set forth in this section:

"Enforcement charges" means all costs and expenses including, but not limited to, administrative costs and enforcement costs including the value of staff time, accounting fees, expert witness fees, attorney's fees and court costs.

"Fraud" has the meanings contained in Sections 1709 and 1710 of the California civil code.

"Mobile home" shall be construed as defined in Section 18001 of the Health and Safety Code of the state, and the provisions of this chapter shall apply only to such mobile homes as are outside of a mobile home park as defined in the Health and Safety Code, and further, the provisions of this chapter shall not apply to the renting of a mobile home when the occupant is the owner or operator of the mobile home or his employee.

"Occupancy" means the use, possession or the right to use or possession of any portion of any transient occupancy facility for overnight sleeping, lodging, dwelling or similar purposes.

"Operator" means the person who is a legal owner of the transient occupancy facility. "Operator" also means a person who has the legal right to possession of the premises occupied by transients. "Operator" also means any person who, through lease, mortgage, contract, license or similar legal right obtains any right to receive or collect any moneys as rent for the occupancy of the transient occupancy facility by transients. "Operator" also means any manager, agent, representative or other similar person acting on the authority of an owner of a transient occupancy facility or on the authority of any person who by reason of lease, mortgage, contract, license or similar legal right to receive or collect rent for the

occupancy of the transient occupancy facility by transients, which agent, manager or representative has been authorized to receive or collect rent for the occupancy of the transient occupancy facility by transients. Compliance with the provisions of this chapter by any operator of a transient facility shall be deemed to be in compliance by all operators of such transient occupancy facility.

"Person" means any person or any group or combination of people acting in a business capacity and shall be considered to include, but not be limited to, the following: individual; firm; partnership, whether limited or general; corporation; real estate or business trust; syndicate; joint tenants; tenants in common; receiver or trustee; unincorporated association; joint venture; joint stock company.

"Rent" means the charge for the occupancy of any space in any transient occupancy facility and for all services rendered in connection therewith, including but not limited to cleaning services, in the form of money, goods, services or similar payment, including, but not limited to, all receipts, cash, credits, goods, property and services of any kind or nature, without any deduction whatsoever, provided that bona fide charges for food and beverages actually consumed, and any amounts paid by the transient occupant which are separately identified on the invoice, receipt, or statement of charges as representing a tourism business improvement district assessment, shall not be considered "rent." The town council may, at any time, remove and/or repeal the exception for tourism business improvement district assessments.

"Tax collector" means the person designated by the town manager or town council of the town of Mammoth Lakes to administer this chapter and oversee the collection of transient occupancy taxes.

"Transient" means any person who exercises, or is entitled to exercise, occupancy, whether by agreement (oral or written), concession, permit, right of access, license, contract, payment of rent or similar entitlement, for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any person so occupying space in a transient occupancy facility shall be deemed to be a transient until the period of thirty days has expired, unless there is a lease agreement or month-to-month rental agreement in writing between the operator and the transient, providing for a period of occupancy in excess of thirty days. In determining whether a person is a transient, uninterrupted periods of time extending both prior to and subsequent to the effective date of this chapter and any amendments hereto, may be considered by the tax collector.

"Transient occupancy facility" means any place, space or structure, or portion of any place, space or structure, which is or may be occupied, or intended or designed for occupancy by transients for purposes of sleeping, lodging or similar use in conformance with the town's zoning regulations, and shall include, but not be limited to the following: hotel, hotel-motel, lodge; inn; dude ranch; apartment; apartment unit; condominium; condominium unit; triplex; duplex; single-family residence; cooperative; mobile home; dormitory; roominghouse; camping site; space where camping or remaining overnight is permitted at a campground, recreational vehicle park; or other similar structure, facility or

space. "Transient occupancy facility" shall not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, owner-occupied time share estate, owner-occupied time share use, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained or housed under legal restraint; housing owned or controlled by any educational institution and used exclusively by students and employees of such educational institutions, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualified for exemption from property taxes under the laws of the state of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by any employer exclusively for housing that employer's employees.

"Primary transient occupancy facility" means any transient occupancy facility which has been designated by the operator as being the primary facility.

"Secondary transient occupancy facility" means any transient occupancy facility of an operator other than that transient occupancy facility which has been designated by the operator as being the primary facility.

(Ord. 93-08 § 1(part), 1993)

(Ord. No. 11-02, § 3(Exh. A), 6-15-2011; Ord. No. 11-03, § 3(Exh. A, 1, 2), 11-30-2011; Ord. No. 13-08, § 2, 8-7-2013)

3.12.030 - Operators—Duties.

Operators shall:

- A. Assist the town police department with respect to law enforcement problems that might arise in conjunction with the occupancy of the operator's transient occupancy facility;
- B. Allow inspection of the premises at any time by inspectors of the town and by inspectors of the bureau of fire prevention of the Mammoth Lakes fire protection district as provided by law to determine the compliance of the premises with the codes and ordinances of the town and the codes and ordinances of the Mammoth Lakes fire protection district;
- C. Take all reasonable and necessary action to assure that transients occupying that operator's transient occupancy facility do not interfere with employees of the town in carrying out their duties;
- D.

Ensure that there is adequate parking space(s) available for transients occupying the transient occupancy facility, pursuant to the requirements of this code. If the transient occupancy facility books rooms with persons who utilize tour bus(es), the operator of the facility shall be required to furnish, or make suitable arrangements for furnishing, adequate parking for the tour bus(es) utilizing either onsite or offsite facilities at locations where tour bus parking is permitted;

E. Maintain a set of books and records, which shall contain all of the information necessary for the computation of any tax due pursuant to this chapter, notify the tax collector of the location of such books and records, and permit inspection of such books and records during normal working hours. Upon ten calendar days' written request by the tax collector, such records shall be available at operator's expense, in the town, during normal working hours;

F. Accept service of process for the operator's alleged violation of this chapter;

G. Not operate any transient occupancy facility in violation of any provision of this chapter;

H. Post faithful performance or similar bonds in such amount as may be required by the tax collector.

(Ord. 91-10 § 1(part), 1991)

3.12.040 - Tax imposed.

For the privilege of occupancy of any transient occupancy facility, each transient is subject to and shall pay a tax in the amount of thirteen percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the town which is extinguished only by payment to the operator or to the tax collector. The transient shall pay the tax to the operator of the transient occupancy facility at the time the rent is paid. If the rent is paid in installments, the unpaid tax shall be paid to the operator at the rate of thirteen percent. If for any reason the tax due is not paid to the operator of the transient occupancy facility, the tax collector may require that such tax be paid by the transient to the tax collector.

(Ord. 06-07 § 3, 2006; Ord. 05-04 § 1, 2005; Ord. 96-11 § 1, 1996; Ord. 96-08 § 1(part), 1996; Ord. 94-10 § 1, 1994; Ord. 91-10 § 1(part), 1991)

3.12.050 - Operator's duties.

A. Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a transient occupancy facility shall advertise or state in any manner, whether directly

or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter.

- B. Each operator shall have a contact person in Mammoth Lakes who is available at all times to respond to questions and issues arising out of the transient occupancy. Any contact person meeting the criteria of Chapter 5.04 requiring a business license must obtain a business license. Any vendor or contractor supplying services to a transient occupancy facility shall obtain a business license if required by Chapter 5.04. Upon request from the town, an operator shall furnish the names of each vendor or contractor supplying services to a transient occupancy facility.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 11-02, § 3(Exh. A), 6-15-2011; Ord. No. 11-03, § 3(Exh. A, 3), 11-30-2011)

3.12.055 - Posting requirements.

- A. Any operator transacting and carrying on business at a fixed place of business in the town shall keep the transient occupancy tax certificate(s) posted in a conspicuous place in such place of business, and shall post the information listed in subsection B in a conspicuous place within each transient occupancy facility operated by the operator.
- B. Postings shall include a copy of the operator's business tax certificate, transient occupancy tax certificate, the maximum legal occupancy limit and maximum rate charged to each transient occupancy facility, phone number for the owner of the transient occupancy facility and for a local contact who will be available to deal with questions and issues arising from the transient occupancy, the transient occupancy facility's address and phone number, waste disposal handling information, and emergency information.

(Ord. No. 11-03, § 3(Exh. A, 4), 11-30-2011)

3.12.060 - Registration.

Each operator of a transient occupancy facility shall register the transient occupancy facility with the tax collector prior to commencing business. It shall be unlawful for any person to act as an operator without: (i) having first procured a primary transient occupancy tax registration certificate or a secondary transient occupancy tax registration certificate; (ii) paying the tax prescribed in this title; and (iii) complying with any and all applicable provisions of this chapter. Upon proper registration, the tax collector shall issue a primary transient occupancy tax registration

certificate or a secondary transient occupancy tax registration certificate to the operator, in accordance with the provision of this chapter. The fees for a primary transient occupancy tax registration certificate and for a secondary transient occupancy tax registration certificate shall be established by resolution of the town council.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 11-03, § 3(Exh. A, 5), 11-30-2011)

3.12.070 - Multiple transient occupancy facilities.

- A. Any operator who operates more than one transient occupancy facility shall be required to obtain a primary transient occupancy tax registration certificate, which shall be issued to the applicant for the transient occupancy facility designated by the applicant as the primary transient occupancy facility. Every other transient occupancy facility of the operator shall be considered a secondary transient occupancy facility.
- B. The tax collector shall issue to the operator of more than one transient occupancy facility a secondary transient occupancy tax registration certificate for each secondary transient occupancy facility.
- C. A secondary transient occupancy tax registration certificate issued under this section does not constitute a primary transient occupancy registration certificate and confers upon the holder no right or privileges in addition to those acquired by the holder of a primary transient occupancy registration certificate.

(Ord. 91-10 § 1(part), 1991)

3.12.075 - Failure to register.

- A. Any operator who fails to timely obtain a transient occupancy registration certificate shall be in violation of this chapter and shall be subject to all of the provisions of Section 312.280, in addition to being subject to all other remedies provided by law. It shall be a separate violation of this chapter for failure to timely obtain a transient occupancy registration certificate for each month, or portion of each month, during which the operator is required to hold such certificate.
- B. In addition to the foregoing, the unregistered operator shall be liable to the town for taxes, penalties, interest and enforcement charges, imposed by this chapter which are imposed upon operator's holding a duly issued transient occupancy registration certificate. Such taxes, penalties, interest and enforcement charges, may be collected by the town as otherwise provided in this

chapter.

- C. When any person shall by use of any promotional media—including but not limited to print, audio, visual or electronic media including web sites, web marketing, advertising or promotional websites, social media, or traditional promotional methods, including but not limited to signs, circulars, bills, cards, telephone books, or newspapers—promote, market, advertise, hold out or represent that they or an entity they own, operate, manage, or control can or will rent a transient occupancy facility, and such person fails to deny by a sworn statement given to the collector that they are not acting as an operator, after being requested to do so by the collector, these facts shall be considered prima facie evidence that such person is acting as an operator.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 11-02, § 3(Exh. A), 6-15-2011; Ord. No. 11-03, § 3(Exh. A, 6), 11-30-2011)

3.12.080 - Reporting and remitting.

- A. All operators shall make their return and remittance on or before the twentieth day of the month following each and every month. If the twentieth day of the month following a particular month is a Saturday, Sunday, or a federal holiday, the return and remittance will be considered timely if received the next business day.
- B. The tax collector may adjust the due dates based on significant events that affect the town or business community, as determined by the tax collector, town manager or town council in his, her, or its sole discretion. In the event of such determination, the tax collector may extend the deadline for submission of returns and tax remittance for blocks of three months. Separate returns and remittance shall be filed and made for each month during that three-month period and the returns and remittances for all months shall be due on the twentieth day of the month following the end of the three-month period. For example, the tax collector could extend the deadline for submission of April, May, and June returns and tax remittances, and all such returns and remittances would be due on July 20th.
- C. On or before the due date, the full amount of the tax due shall be paid to the tax collector. Notwithstanding any extension made by the tax collector pursuant to paragraph B above, returns and payments are due within fifteen days upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the town until payment thereof is made to the tax collector. The tax collector may, in his or her discretion, require that a separate trust account be established at a financial institution of his or her choice, the balance of which shall be payable to the town, if the tax collector deems it necessary in order to ensure remittance of the tax.

D. Each return filed pursuant to this chapter shall include the following information, as well as such other information as the tax collector may deem reasonably necessary for the enforcement of this chapter:

1. The number of nights of available occupancy during the reporting period.
2. The number of paid nights during the reporting period; and
3. Any other statistical breakdowns, data, or information relating to rentals as requested by the tax collector.

(Ord. 93-08 § 1(part), 1993)

(Ord. No. 11-03, § 3(Exh. A, 7), 11-30-2011; Ord. No. 20-05, § 2, 4-22-2020)

3.12.090 - Original delinquency.

Any operator who fails to pay any tax imposed by this chapter within the time required shall pay, in addition to such tax and any interest such tax may accrue, an original delinquency penalty of ten dollars or fifteen percent of the amount of the tax, whichever dollar amount is greater; provided, however, that any operator who has not been late in paying any tax imposed by this chapter within the preceding three calendar years shall, upon application of the operator to the tax collector within fifteen days after the date such tax first became due, pay an original delinquency penalty of ten dollars or a total of one percent per day of the amount of tax due for each day such tax is delinquent, whichever dollar amount is greater. Every penalty imposed, and such interest as accrues under the provisions of this chapter, shall become part of the tax required to be paid. Interest shall accrue on all unpaid taxes until paid. Notwithstanding the foregoing, the town council may by resolution specify that interest shall accrue on all unpaid taxes until paid, but not on penalties imposed on delinquent amounts.

(Ord. 93-08 § 1(part), 1993)

(Ord. No. 15-07, § 2, 10-7-2015)

3.12.100 - Continued delinquency.

A. Any operator who fails to pay any delinquent tax, penalties and interest on or before the lapse of thirty days following the date on which the tax first became delinquent, shall pay an additional delinquency penalty, over and above that provided in Section 3.12.090, of ten dollars or fifteen percent of the amount of the tax, penalties and interest then due, whichever is greater. Notwithstanding the foregoing, the town council may by resolution specify that the delinquency penalty shall be the greater of ten dollars or fifteen percent of the amount of the tax then due, excluding penalties and interest.

B. If the tax, penalties, and interest are not paid within sixty days from the date on which the tax became delinquent, the tax collector shall give written notice to the operator in whose name the transient occupancy registration certificate was issued of his intention to cancel the certificate after fifteen days from the date on the notice should the taxes, penalties, and interest then due not be paid. Written notice shall be deemed given when a copy of same is enclosed in a sealed envelope with postage thereon fully prepaid and certified in the United States mail and addressed to that address given by the operator in the application for the certificate. The transient occupancy registration certificate and the operator's business license tax certificate shall be canceled upon lapse of the fifteen days provided in the notice, if all taxes, penalties, and interest are not paid in full within the fifteen-day period.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 14-11, § 2A, 12-3-2014; Ord. No. 15-07, § 2, 10-7-2015)

3.12.105 - Adjustment of penalty and interest.

Notwithstanding Sections 3.12.090 and 3.12.100, if the tax collector determines that any of the requirements established by the town for notifying an operator of a transient occupancy facility that the operator is delinquent in remitting a return and paying tax as required by this chapter have not been met, the tax collector may reduce the penalty and interest due on an account to only one month of penalties and interest.

(Ord. No. 17-04, § 2, 3-15-2017)

3.12.110 - Fraud.

If the tax collector determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to all other penalties provided in this chapter.

(Ord. 91-10 § 1(part), 1991)

3.12.120 - Interest.

In addition to the penalties imposed by this chapter, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first become delinquent, until paid. Notwithstanding the foregoing, the town council may by resolution specify that interest shall

accrue on all unpaid taxes until paid, but not on penalties imposed on delinquent amounts.

(Ord. 91-10 § 1(part), 1991; Ord. No. 15-07, § 2, 10-7-2015)

3.12.130 - Collection and report failure—Tax collector determination.

If any operator fails or refuses to collect the tax imposed by this chapter and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax collector shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax collector procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by an operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest, penalties and enforcement charges provided for by this chapter. In case such determination is made, the tax collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, first class postage prepaid and certified, addressed to the operator so assessed at his last known address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax collector for a hearing on the amount assessed. If application by the operator for hearing is not made within the time prescribed, the tax, interest, penalties and enforcement charges, if any, determined by the tax collector, shall become final and conclusive immediately due and payable. If such application is made, the tax collector shall give not less than five days' written notice in the manner prescribed in this chapter to the operator to show cause at the time and place fixed in the notice why the amount specified therein should not be fixed at such tax, interest, penalties and enforcement charges. At such hearing, the operator may appear and offer evidence why such specified tax, interest, penalties and enforcement charges should not be so fixed. After such hearing the tax collector shall determine the proper amount to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and the amount of such tax, interest, penalties and enforcement charges, including enforcement charges related to the hearing. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.12.140. On good cause, the transient occupancy registration certificate of the operator may be suspended by the tax collector pending the hearing as herein provided or any appeal thereof. No enforcement charges shall be imposed if no tax, interest or penalties are found to be due.

(Ord. 91-10 § 1(part), 1991)

3.12.140 - Appeal.

- A. Any operator aggrieved by any decision of the tax collector with respect to the amount of such tax, interest, penalties, enforcement charges or suspension, if any, may appeal to the town council by filing a notice of appeal with the clerk of the town council within fifteen days of the serving or mailing of the determination of tax due; provided, that he has completed all administrative procedures and sought all administrative remedies in Section 3.12.130 including appearance in person or through legal counsel at all administrative hearings. The town council shall fix a time and place for hearing such appeal, and the clerk of the town council shall give notice in writing to such operator at his last known place of address. The findings of the town council shall be final and conclusive and shall be served upon the appellate in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
- B. No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the town or an officer thereof, to prevent or enjoin the collection of taxes sought to be collected pursuant to this chapter and payment of all tax, interest and penalties shall be required as a condition precedent to seeking judicial review of any tax liability.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 10-10, 9-22-2010)

Editor's note— Ord. No. 10-10, adopted Sept. 22, 2010, shall become effective and enforceable Nov. 8, 2010.

3.12.150 - Records required.

It shall be the duty of every operator to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax, interest, penalties and enforcement charges, as may have been due to the town, which records the tax collector or his agent shall have the right to inspect at all reasonable times. All tax returns and information furnished by any operator pursuant to this chapter shall be confidential and shall not be open to the public inspection nor the specific contents thereof disclosed by any officer or employee except: (i) as necessary in the performance of official duty pursuant to this chapter; (ii) in the course of proceedings, hearing or litigation involving the existence or amount of tax, interest, penalties or enforcement charges; (iii) to the extent deemed advisable or necessary in connection with the issuance of bonds or completion of other financing arrangements by the town; or (iv) with the written consent of the operator or his authorized representative.

(Ord. No. 17-06, § 2, 8-16-2017; Ord. 91-10 § 1(part), 1991)

3.12.160 - Refunds—Authorized when.

Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the town under this chapter, it may be refunded as provided in Sections 3.12.170 and 3.12.180, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax collector within three years of the date of payment. The claim shall be on forms furnished by the tax collector. Persons claiming refunds shall provide all information required by the tax collector to determine the validity of refunds claimed. No refund shall be paid unless the claim has been reviewed and the entitlement to the refund determined to be valid by the tax collector. The tax collector shall not refund any tax, interest or penalties if said tax, interest or penalties have previously been determined as final by the town council.

(Ord. 93-08 § 1(part), 1993)

3.12.170 - Refunds—Credit against taxes.

Any operator may claim or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax collector that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(Ord. 91-10 § 1(part), 1991)

3.12.180 - Refunds—Repayment to transient.

A transient may obtain a refund of tax, penalty or interest overpaid or paid more than once or erroneously or illegally collected or received by the town by filing a claim in the manner provided in Section 3.12.160, but only when the tax was paid by the transient directly to the tax collector, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax collector that the transient has been unable to obtain a refund from the operator who collected the tax.

(Ord. 93-08 § 1(part), 1993)

3.12.190 - Refunds—Records required.

No refund shall be paid under the provisions of Sections 3.12.160 through 3.12.180 unless the claimant establishes his right thereto by written records showing entitlement thereto by clear and convincing evidence.

(Ord. 91-10 § 1(part), 1991)

3.12.200 - Tax responsibility.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the town. Any such tax collected by an operator which has not been paid to the town shall be deemed a debt owed by the operator to the town. Any person owing money to the town under the provisions of this chapter shall be liable to an action brought in the name of the town for the recovery of such amount, including interest, penalties and enforcement charges.

(Ord. 91-10 § 1(part), 1991)

3.12.210 - Current business tax certificate required.

A current business tax certificate for each primary transient occupancy facility must exist before issuance of any transient occupancy registration certificate. A current business tax must be paid for each secondary transient occupancy facility before issuance of any secondary transient occupancy registration card.

(Ord. 93-08 § 1(part), 1993)

3.12.220 - Delinquency—Certificate required.

If any tax, interest or penalty imposed under this chapter is not paid by the last day of the month succeeding the delinquency date, the tax collector may file no sooner than ten days after the mailing of the notice required in subsection B of this section, in the office of the county clerk, without fee, a certificate specifying as follows:

- A. The fact that a notice of intent to file the certificate had been sent, be certified mail, to the operator, at his last known address, not less than ten days prior to the date of the certificate.
- B. The fact that the notice required in subsection A of this section set forth the following information:

1. The name of the transient occupancy tax registration certificate holder;
2. The fact that judgment will be sought in the amount of the tax, penalty, interest and enforcement charges that will remain unpaid at the time of the filing of the certificate;
3. The fact that, upon the issuance and recordation of such judgment, additional penalties and interest will continue to accrue at the rate prescribed by law, and that any bond premium posted or other costs to enforce the judgment shall be an added charge;
4. The fact that a recording fee of five dollars per page will be required to be paid for the purpose of the recordation of any release of the judgment lien.
- C. The amount for which judgment is to be entered.
- D. The fact that there has been compliance with all provisions of this chapter in the computation and the levy of the tax, penalty, interest and enforcement charges.
- E. The fact that a request is therein made for the issuance and entry of judgment against the transient occupancy tax registration certificate holder.

(Ord. 91-10 § 1(part), 1991)

3.12.230 - Certificate filing—Entry of judgment.

The county clerk, immediately upon the filing of the certificate, shall enter a judgment for the town against the transient occupancy tax registration certificate holder in the amount of the tax, penalty, interest and enforcement charges set forth in the certificate. The county clerk may file the judgment in a looseleaf book entitled "Town of Mammoth Lakes Transient Occupancy Tax Judgments."

(Ord. 91-10 § 1(part), 1991)

3.12.240 - Lien on property.

An abstract or a copy of the judgment shall be recorded, without fee, in the office of the county recorder. From the time of the recording, the amount of the tax, penalty, interest and enforcement charges set forth constitutes a lien upon all property of the transient occupancy tax registration certificate holder, owned by him or afterward acquired by him, and before the lien expires. The lien has the force, effect and priority of a judgment lien and continues for ten years from the date of the recording unless sooner released or otherwise discharged.

(Ord. 91-10 § 1(part), 1991)

3.12.250 - Penalty—Additional.

In addition to any penalty or fee imposed pursuant to this chapter a penalty equal to the amount of any bond premium posted or other costs incurred to enforce the judgment entered pursuant to this chapter shall be imposed.

(Ord. 91-10 § 1(part), 1991)

3.12.260 - Execution upon judgment.

Execution shall issue upon the judgment upon request of the tax collector in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

(Ord. 91-10 § 1(part), 1991)

3.12.270 - Satisfaction of judgment—Removal of lien.

- A. The judgment is satisfied and the lien removed when, but not before, the certificate of release or discharge from the judgment lien is recorded in the office of the county recorder. In addition to the judgment amount, and any additional penalty or interest accruing on the judgment, the tax collector shall collect the recording fee of five dollars per page for the recording of the lien release or discharge document and transmit it to the county recorder together with the documents for release or discharge.
- B. The judgment is also satisfied and the lien removed when, but not before, the tax is legally canceled and a release or discharge from the judgment lien is recorded in the office of the county recorder. A recording under this subdivision shall be made without fee.

(Ord. 91-10 § 1(part), 1991)

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. 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. 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.

D. 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.

(Ord. 91-10 § 1(part), 1991)

(Ord. No. 11-02, § 3(Exh. A), 6-15-2011; Ord. No. 12-01, § 3, 3-7-2012)

3.12.300 - Registration records.

At or prior to the time of registration, an operator shall maintain a record of the name and address of the transient occupant to whom every transient occupancy facility unit is let, together with a record of the number of persons who are allowed to occupy the transient occupancy facility unit. The operator shall retain such records for a period of three years.

(Ord. 91-10 § 1(part), 1991)

3.12.310 - "Stacking."

It is a violation of this chapter for any person to knowingly aid or engage in the practice commonly known in the lodging industry as "stacking." "Stacking" occurs when a transient occupant who is the registered occupant of a transient occupancy unit, allows other persons to share occupancy of that unit for any night for which those persons are not registered, with intent to defraud the operator of a transient occupancy facility.

"Stacking" fraudulently deprives the town of tax revenue to which the town is entitled.

- A. Any transient who allows stacking to take place in the unit for which that person is registered, and any transient who occupies a unit knowing that his or her occupancy has not been paid for, shall be in violation of this chapter. Any such violation shall be prosecuted as a misdemeanor, or, in the discretion of the prosecuting attorney, may be prosecuted as an infraction.
- B. In order to apprise transient occupants of potential violations of this section, and relevant provisions of state law, all transient occupancy facility operators shall require each registered occupant to read and sign, under penalty of perjury, the following declaration:

I, _____, having registered as occupant of Room/Unit # _____ at _____ for the night(s) of _____, declare under penalty of perjury that not more than _____ person(s), including myself, will be using the room/unit for overnight sleeping purposes on that/those night(s).

I understand that the Municipal Code of the Town of Mammoth Lakes prohibits transient occupants of lodging facilities from housing additional unregistered guests in a unit and that a violation of the provisions of Chapter 3.12 is a violation of the municipal code, subject to a civil penalty of not less than one hundred dollars (\$100) for each day on which such violation occurs. I further understand that California Penal Code Section 537 prohibits the defrauding of innkeepers and that such fraud is punishable by a fine of up to one thousand dollars (\$1,000) and/or by imprisonment in the state prison for up to three (3) years. I further understand that I am signing this declaration under penalty of perjury and that perjury is punishable under California Penal Code Section 126 by imprisonment for a period of from two (2) to four (4) years.

I declare that I have read the above provisions and that I sign this declaration with full knowledge and understanding of the consequences of any violation of the laws noted above.

Signature

(Ord. 91-15 § 1(part) Exh. B, 1991)

3.12.320 - Disclosure of ordinance upon sale of property.

Pursuant to Section 1102.6(a) of the California Civil Code, sellers of residential property shall disclose to purchasers of such property the provisions of this chapter [ordinance], and shall further disclose to purchasers the residential zones in which transient occupancy is permitted and the zones in which it is prohibited. This disclosure obligation shall be satisfied by providing to each purchaser a "Local Option Real Estate Transfer Disclosure Statement" specified by the town and by providing a copy of this chapter [ordinance].

(Ord. No. 11-02, § 3(Exh. A), 6-15-2011)

Chapter 3.14 - TRANSIENT OCCUPANCY FEE AT MAMMOTH-YOSEMITE AIRPORT

Sections:

3.14.010 - Title.

The ordinance codified in this chapter shall be known as the "Mammoth-Yosemite Airport transient occupancy fee ordinance."

(Ord. 05-09 § 1(part), 2005)

3.14.020 - Purpose.

The purpose of the ordinance codified in this chapter is to recoup from transients who use transient occupancy facilities at the Mammoth-Yosemite Airport the actual and direct benefits received by such transients arising out of the town's ownership, possession, improvement, operation and maintenance of the Mammoth-Yosemite Airport, and to use such fees solely for the purposes of operation, maintenance and improvement of the Mammoth-Yosemite Airport.

(Ord. 05-09 § 1(part), 2005)

3.14.030 - Relationship to transient occupancy tax.

The fee imposed by the ordinance codified in this chapter is not a tax, but rather is a direct quid-pro-quo fee imposed upon transients who use transient occupancy facilities at the Mammoth-Yosemite Airport where such fee pays directly for the benefits received, and where such fee is deposited into an enterprise fund to be used solely for the operation, maintenance and improvement of the Mammoth-Yosemite Airport. The transient occupancy fee is imposed pursuant to Government Code Section 54342.

The transient occupancy tax imposed by Chapter 3.12 of this code is a tax in that the amount imposed is not directly related to the benefit received, and where such tax revenues are placed in the town's general fund and used for general municipal purposes.

Notwithstanding the foregoing, the procedures for processing and collecting the transient occupancy fee shall directly parallel the procedures for processing and collecting the transient occupancy tax. Accordingly, the transient occupancy fee shall be processed and collected, and all disputes handled in accordance with the procedures set forth in Chapter 3.12, Transient Occupancy Tax, Sections 3.12.020, 3.12.030, 3.12.050, 3.12.060, 3.12.070, 3.12.075, 3.12.080, 3.12.090, 3.12.100, 3.12.110, 3.12.120, 3.12.130, 3.12.140, 3.12.150, 3.12.160, 3.12.170, 3.12.180, 3.12.190, 3.12.200, 3.12.210, 3.12.220, 3.12.230, 3.12.240, 3.12.250, 3.12.260, 3.12.270, 3.12.280, 3.12.290, 3.12.300 and 3.12.310 of this code. Wherever such sections apply to transient occupancy tax, they shall also be deemed to apply to transient occupancy fees.

(Ord. 05-09 § 1(part), 2005)

3.14.040 - Fee imposed.

Each transient occupant of a transient occupancy facility at the Mammoth-Yosemite Airport shall pay a transient occupancy fee at a rate equal to, but not greater than, the rate set for imposition of the transient occupancy tax by Section 3.12.040 of this code, except to the extent that such rate would exceed the costs reasonably borne, in which case the rate would be set to such lesser amount as to equal the costs reasonably borne.

Notwithstanding the foregoing, if the actual cost of providing the services for the transient occupancy fee imposed is less than the rate set for the imposition of the transient occupancy tax, the transient occupancy fee shall be imposed at such lower rate. Establishment of such lower rate shall be by resolution of the town council. The town shall no less than annually determine the actual rate at which the transient occupancy fee shall be imposed.

(Ord. 05-09 § 1(part), 2005)

3.14.050 - Transient occupancy tax unaffected.

Nothing in this chapter shall constitute an actual or implied repeal of the transient occupancy tax or any of the provisions of Chapter 3.12 of the Mammoth Lakes Municipal Code.

(Ord. 05-09 § 1(part), 2005)

3.14.060 - Credit for payment of transient occupancy fee against transient occupancy tax.

The transient occupancy tax imposed upon transient occupants of transient occupancy facilities at the Mammoth-Yosemite Airport pursuant to Chapter 3.12 of the Mammoth Lakes Municipal Code remains in full force and, except as set forth in this chapter, shall be due and payable as provided in Chapter 3.12 of this code.

Notwithstanding the foregoing, any transient occupancy fee paid to the town shall constitute a credit against transient occupancy tax otherwise due and payable up to, but not exceeding, the actual amount of transient occupancy tax otherwise due.

If the amount of transient occupancy fee for any period actually paid equals or exceeds the transient occupancy tax due for that period, then no transient occupancy tax need be paid. If the amount of the transient occupancy fee for any period actually paid is less than the transient occupancy tax due for that period, then credit against such transient occupancy tax due shall be given in the amount of transient occupancy fee actually paid, and the unpaid portion of the transient occupancy tax shall remain due and shall be otherwise timely paid.

(Ord. 05-09 § 1(part), 2005)

3.14.070 - Enterprise fund.

The transient occupancy fees paid under this chapter shall be paid into and constitute an enterprise fund pursuant to Government Code Section 54342. The finance director shall maintain and operate such enterprise fund according to law, and shall use such enterprise fund solely for the purposes of operating, maintaining and improving the Mammoth-Yosemite Airport. Such funds may also be used to repay debt incurred where the funds which gave rise to such debt were used for the purposes of operating, maintaining and improving the Mammoth-Yosemite Airport.

(Ord. 05-09 § 1(part), 2005)

Chapter 5.40 - TRANSIENT RENTALS OF RESIDENTIAL UNITS

Footnotes:

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Editor's note— Ord. No. 15-12, § 2(Exh. A), adopted Dec. 2, 2015, amended Ch. 5.40 in its entirety to read as herein set out. Former Ch. 5.40, §§ 5.40.010—5.40.070, pertained to similar subject matter, and derived from Ord. No. 15-05, § 2(Exh. A), adopted Sept. 16, 2015.

5.40.010 - Purpose of chapter.

This chapter is intended to provide a procedure to ensure that transient rental use does not create adverse impacts to neighboring properties due to excessive traffic, noise, trash, and similar issues. Additionally, this chapter is intended 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. This is consistent with the General Plan Vision Statement that the town of Mammoth Lakes is committed to providing the very highest quality of life for our residents and the highest quality of experience for our visitors.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

5.40.020 - Permitted use.

Transient use of residential property shall be permitted as allowed by Title 17, Zoning, upon the issuance of a Business Tax Certificate and Transient Occupancy Tax Certificate pursuant to Municipal Code Sections 5.04 and 3.12. The Business Tax and Transient Occupancy Tax Certificates shall be maintained at all times. Transient uses shall comply with all applicable codes including the California Building Code and the California Residential Code and local amendments.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

5.40.030 - Definitions.

For the purposes of this section, the following terms shall be defined as follows:

- A. "Transient Rental" means a residential structure, which is occupied, or intended or designed for occupancy, by persons for purposes of sleeping, lodging, or similar reasons for a period of thirty consecutive days or less in exchange for a fee or other consideration.
- B. "Transient occupancy facility" means any place, space or structure, or portion of any place, space or structure, which is or may be occupied, or intended or designed for occupancy by transients for purposes of sleeping, lodging or similar use in conformance with the town's zoning regulations, and shall include, but not be limited to the following: hotel, hotel-motel, lodge; inn; dude ranch; apartment; apartment unit; condominium; condominium unit; triplex; duplex; single-family residence; cooperative; mobile home; dormitory; roominghouse; camping site; space where camping or remaining overnight is permitted at a campground, recreational vehicle park; or other similar structure, facility or space. "Transient occupancy facility" shall not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, owner-occupied time share estate, owner-occupied time share use, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other facility in which human beings are detained or housed under legal restraint; housing owned or controlled by any educational institution and used exclusively by students and employees of such educational institutions, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualified for exemption from property taxes under the laws of the state of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by any employer exclusively for housing that employer's employees.
- C. "Operator" means the person who is a legal owner of the transient occupancy facility. "Operator" also means a person who has the legal right to possession of the premises occupied by transients. "Operator" also means any person who, through lease, mortgage, contract, license or similar legal right obtains any right to receive or collect any moneys as rent for the occupancy of the transient occupancy facility by transients. "Operator" also means any manager, agent, representative or other similar person acting on the authority of an owner of a transient occupancy facility or on the authority of any person who by reason of lease, mortgage, contract, license or similar legal right to receive or collect rent for the occupancy of the transient occupancy facility by transients, which agent, manager or representative has been authorized to receive or collect rent for the occupancy of the transient occupancy facility by transients.
- D.

"Residential property" means any single- or multiple-family dwelling units, duplexes, guesthouses, caretaker units, or other dwelling unit or structure located on one or more contiguous lots of record in any of the zoning districts in Title 17 which allow residential uses. This does not include condominiums that function as hotels (i.e. condo hotels).

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

5.40.040 - Sign and Notification Requirements.

Required interior and exterior notices must be posted as described in Sections A and B below and the address of each unit must be legible from public view. Exterior signage requirements shall become effective on July 1, 2016. Exterior signage is not required for transient rental units within condominium complexes.

A. Exterior Notice. Each transient rental shall be equipped with not more than one weatherproof identification sign, not to exceed two square feet/two hundred eighty-eight square inches in area. The identification sign shall be displayed during time the transient rental is being rented on a transient basis (i.e. if unit is only rented out two weeks a year, identification sign only needs to be displayed during those two weeks). By offering transient rentals the operator shall be deemed to have consented to entry upon the property by any person in order to read the identification sign. The required identification sign shall be attached to the transient rental in a location which is clearly visible from public view and shall clearly display all of the following information in lettering of sufficient size to be easily legible:

1. The name of the operator and a telephone number at which that party can be reached on a twenty-four-hour basis;
2. The maximum number of occupants permitted to stay overnight in the unit;
3. The maximum number of vehicles associated with the transient rental allowed to be parked on the property; and
4. The telephone number of the police department and the town finance department's TOT compliance hotline.

B. Interior Notice. Each transient rental unit shall have a notice posted within the unit in a location clearly marked and accessible to the tenant (e.g. posted on the refrigerator, included within a binder with additional information on the unit, etc.), containing all of the following information:

1. The maximum number of occupants permitted to stay overnight in the unit;
2. The maximum number of vehicles associated with the transient rental allowed to be parked on the property;
3. The location of on-site parking spaces and the parking rules for seasonal snow removal;

4. Notification that an occupant, as a person responsible for an unlawful large party, may be cited and fined for creating a disturbance or for violating other provisions of this article;
5. Notification that trash and refuse shall not be left or stored on the property unless it is deposited in bear resistant containers intended for pickup by the town's solid waste contractor. Alternatively, trash may be deposited within a dumpster serving the property or at the transfer station for a fee. Trash information should include specific instructions on opening and securing the animal resistant dumpsters;
6. Notification that failure to conform to the parking and occupancy requirements for the transient occupancy facility is a violation of the town's Municipal Code;
7. The name of the managing agency or agent and a telephone number at which that party may be reached on a twenty-four (24) hour basis; and
8. Physical street address of the unit and emergency contact information consisting of 911 and non-emergency contact information for the Mammoth Lakes Fire Protection District and Mammoth Lakes Police Department.
9. Evacuation plan for the unit showing exit routes, exits, and fire extinguisher locations. Evacuation plan may be hand-drawn and does not need to be drawn to scale but should clearly show occupants how to exit the premises in the case of an emergency.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

5.40.050 - Standards and Conditions Of Operation.

Transient uses shall comply with all of the following standards and conditions of operation.

- A. All applicable codes regarding fire, building and safety, health and safety, noise, and other relevant laws.
- B. Information on the permitted occupancy, parking capacity for each unit, and trash disposal requirements shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit. The operator shall restrict the parking for the transient rental so that tenants will not exceed the number of parking spaces allocated to the unit.
- C. Each operator shall have a local contact person who is available at all times to respond to questions and issues arising out of the transient occupancy. The operator shall be personally available by telephone on a twenty-four-hour basis to respond to calls regarding the condition and/or operation of the unit. Failure to respond to calls in a timely and appropriate manner on more than two occasions may result in revocation of the Business Tax Certificate authorizing the use. For purposes of this chapter,

responding in a timely and appropriate manner shall mean that a response to an initial call shall be made within one hour of the time the call was made, and within twenty-four hours of the initial call, corrective action shall be commenced to address any violation of this section.

- D. The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Health & Safety Code and the 1997 Uniform Housing Code. Each business tax certificate for a transient occupancy facility shall specify the maximum number of occupants allowed.
- E. Any advertisement, including web advertising, for the rental unit must include the Transient Occupancy Tax Certificate number.
- F. All activities shall be in compliance with the town's Noise chapter (Municipal Code Chapter 8.16) and the town's Solid Waste chapter (Municipal Code Chapter 8.12).
- G. Occupancy Limitations
 - 1. Single-Family Home, Town Home, Duplex. The maximum number of persons who may occupy the property as transient renters or their overnight guests shall be limited to two persons per bedroom, plus two. Lofts that meet California Building Code egress requirements are considered a bedroom for the purposes of this occupancy calculation. In no event may the maximum occupancy exceed ten (10) persons in any rental unit unless the unit is approved by the town of Mammoth Lakes Community and Economic Development Director for such occupancy.
 - 2. Condominiums and All Other Unit Types. The maximum number of persons who may occupy the property as transient renters or their overnight guests shall be limited to two persons per bedroom, plus two, unless the unit is approved for a higher maximum number of persons by the town of Mammoth Lakes Community and Economic Development Director. Lofts that meet California Building Code egress requirements are considered a bedroom for the purposes of this occupancy calculation.
- H. Transient rental units shall not be used for activities that would exceed the maximum permitted number of occupants unless a special event permit is reviewed and approved by the Town.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

5.40.060 - Inspection Requirements.

Any transient use requesting a new business tax certificate and/or transient occupancy tax certificate within a residential structure shall be inspected, prior to commencement of the use, by a qualified inspector authorized and approved by the town to conduct such inspections. The inspection shall verify compliance with all standards and conditions of operation including signage requirements as well as applicable safety

requirements. The operator shall submit a completed inspection form to the town showing that the unit has passed inspection and is approved for rental. The actual cost of such inspection, plus any administrative charges, shall be paid by the operator directly to the inspector. A unit shall not be required to be inspected more than once every three years regardless of the changes in business tax certificates and/or transient occupancy tax certificates.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

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.
- B. Notwithstanding Chapter 1.12, the administrative fine for the operation of any transient occupancy facility without a valid business tax certificate, or the operation of any transient occupancy facility in violation of applicable zoning requirements of the town shall be five hundred dollars for the first violation and one thousand dollars for a second or subsequent violation within three years.
- C. 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.

(Ord. No. 15-12, § 2(Exh. A), 12-2-2015)

