



MARIPOSA COUNTY

Planning · 209-966-5151



ORDINANCE 2016-1116

MEETING: March 15, 2016

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Countywide Amendments to Regulations for Residential Transient
Occupancy Facilities

RECOMMENDATION AND JUSTIFICATION:

Waive Second Reading and Adopt an Ordinance Amending County Code Pursuant to General Plan/County Code Amendment No. 2015-112 to Amend Countywide Regulations for Residential Transient Occupancy Facilities

This project includes text amendments to Titles 3 and 17 of Mariposa County Code.

The impetus for the proposed amendments is from concern on the part of the County Building Department relating to its authority to review and approve the use of single family residential structures for commercial bed and breakfast, and vacation rental purposes. The Building Department's goal is to ensure that approvals of such uses in single family residential structures reflect the intent of the State Building and Residential codes as much as possible under this program, and that county liability is reduced to the maximum extent feasible. The amendments update, standardize and make consistent all text relating to bed and breakfast, and vacation rental facilities contained in the General Plan and County Code; current code is from 1988. The amendments seek to eliminate redundancy of text in the standards for planning areas by referring to generally applicable standards in Title 17. The amendments accurately reflect the current permitting and approval processes.

The recommended action is based on Planning Commission's recommendation and Board of Supervisors' direction on February 9, 2016, following the conclusion of the public input portion of the public hearing.

Please see the memorandum attached to MT packet No. 5495 and the attachments for more information.

This ordinance was introduced on March 1, 2016.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board adopted Resolution No. 2015-344 on July 7, 2015, initiating the amendments. The proposed amendments are a result of a cooperative effort involving

the Planning Department, the Building Department, the Health Department and the Tax Collector.

The Board conducted a noticed public hearing to consider General Plan/County Code Amendment No. 2015-112 on February 9, 2016. The Board considered the staff presentation, asked questions to staff, opened the public input portion of the hearing, took public input, closed the public input portion of the hearing, deliberated, directed staff to make changes to the project, and continued the public hearing to the 1st day of March 2016 at 2 p.m.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Alternatives: Make further modifications to the text in the amendment package.

Negative action: Do not approve amendments. Regulations for Residential Transient Occupancy Facilities will not change.

FINANCIAL IMPACT:

None

ATTACHMENTS:

160315 Final Ordinance (DOC)

160315 Summary Ordinance for Publication (post adoption) (DOC)

CAO RECOMMENDATION

Requested Action Recommended



Mary Hodson, CAO

2/4/2016

RESULT: ADOPTED [3 TO 2]

MOVER: Rosemarie Smallcombe, District I Supervisor

SECONDER: Merlin Jones, District II Supervisor

AYES: Rosemarie Smallcombe, Merlin Jones, John Carrier

NAYS: Marshall Long, Kevin Cann

**STATE OF CALIFORNIA
COUNTY OF MARIPOSA
BOARD OF SUPERVISORS**

MARIPOSA COUNTY ORDINANCE NO. 1116

**AN ORDINANCE AMENDING CHAPTERS 17.108, 17.148, 17.334, and 3.36 OF THE
MARIPOSA COUNTY CODE**

WHEREAS, the Mariposa County Board of Supervisors initiated General Plan/County Code Amendment No. 2015-112 on July 7, 2015; and

WHEREAS, General Plan/County Code Amendment No. 2015-112 includes amendments to the General Plan (Volume II) and to Titles 3 and 17 Mariposa County Code to ensure that approvals of bed and breakfasts and vacation rentals in single family residential structures are consistent with the intent of the State Building and Residential codes and County liability is reduced to the maximum extent feasible. The amendments also standardize and make consistent all text relating to bed and breakfast and vacation rental facilities contained in the General Plan and County Code, and update code to reflect current permitting and approval processes; and

WHEREAS, the Planning Commission considered the full text of General Plan/County Code Amendment at a duly noticed public hearing on the 18th day of December, 2015, in accordance with State Law and County Code; and

WHEREAS, the Board of Supervisors held a duly noticed public hearing on General Plan/County Code Amendment on the 9th day of February, 2016, continued to the 1st day of March, 2016, in accordance with State Law and County Code; and

WHEREAS, it has been found that the project is exempt from the California Environmental Quality Act, and a Notice of Exemption has been filed for the project; and

WHEREAS, the Board of Supervisors of the County of Mariposa wishes to amend Chapter 17.108, Chapter 17.148, Chapter 17.334, and Chapter 3.36 of Mariposa County Code;

NOW, THEREFORE, the Board of Supervisors of the County of Mariposa ordains as follows:

Section I

Amend Chapter 17.108, Section 17.108.180 as follows:

Chapter 17.108

SUPPLEMENTARY STANDARDS

...

17.108.180 Bed and breakfast and vacation rentals.

For purposes of this chapter, residential transient rental and vacation rental have the same meaning.

Bed and breakfast and vacation rental establishments (residential transient occupancy facilities) shall be considered permitted in all principal zones, except the M-1 and M-2 zones. Such uses in the AE zone are also subject to the standards contained in Section 17.40.010.A.1 of this Title. These provisions shall also be applicable in planning areas with adopted area plans unless otherwise specifically regulated or prohibited. An agricultural homestay is a permitted use in the AE zone, subject to compliance with development standards established by the zone and as contained herein. A vacation rental application may be processed for individual condominium units as shown on the Condominium Plan of Yosemite West, Condominium Project Phase No. 1 (Record of Survey No. 1835, Units A101-A112, A201-A212, B101-B112 and B201-B212), based on a September 21, 2001 Planning Director determination that found that the use of the condominium structures for vacation rental purposes is a legally existing non-conforming use. These uses shall not be detrimental to the district or to adjoining areas, including residential areas, by reason of appearance, traffic, noise, dust, smoke, or odor. Excludes any use the normal operation of which causes objectionable traffic, noise, dust, smoke or odor to be emitted, radiated, or carried beyond the boundaries of the property on which the operation is located. Bed and breakfast establishments and vacation rentals are defined in Chapter 17.148 and are located in a residence owned by the applicant. Agricultural homestays are defined in Chapter 17.148 and are located in the residence of the property owner or accessory dwelling or other existing dwelling. Bed and breakfasts, agricultural homestays, and vacation rentals shall meet the following requirements: (Ord. 1074 Sec.III, 2010; Ord. 1059 Sec.I, 2009).

A. No more than three (3) bedrooms are available for occupancy by transients for vacation rentals.

B. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments and agricultural homestays. (Ord. 1074 Sec.III, 2010; Ord. 1059 Sec.II, 2009).

C. Occupancy in a vacation rental approved on or after April 14, 2016 shall be limited to ten (10) or fewer occupants. This limit shall apply to new vacation rental facilities, as well as vacation rental facilities which are being permitted following a property ownership change. Vacation rentals must post a minimum 8-1/2 x 11 inch NOTICE over or next to the facility's primary exit door stating "Maximum Occupancy 10 Persons", or such lesser occupancy as desired by the owner or as required pursuant to Section D below. Lettering shall be clearly visible through contrast from the background and a minimum of 1-1/2 inches in height and width.

D. Private on-site sewage disposal systems or small, private community systems that serve a bed and breakfast or vacation rental facility shall have sufficient capacity to serve 10 occupants within the facility. If such a system does not meet this design standard, the facility shall be limited to an occupancy of two (2) persons per

approved bedroom. Should the "maximum occupancy" allowed be less than 10 persons, the occupancy notice as described in Section C. above shall reflect that number.

E. The structure and facilities used shall be approved for such use by the Mariposa County Health Department and shall at a minimum comply with the following standards:

1. The residence shall be serviced by an approved community sewage disposal system, or have an individual system satisfying current code requirements. Existing and newly constructed individual systems shall meet the current sizing requirements of the Health Department for new dwellings based on the number of bedrooms in the dwelling, or the system shall be designed to serve the planned number of occupants. Septic systems serving homes constructed in 1985 or before may be required to be upgraded when the home is being converted to bed and breakfast or vacation rental use.

2. Water supply shall be by an approved community system, or from an individual well or spring approved by the Health Department having quality and quantity satisfying current Health Department requirements.

F. The structure and facilities used must be inspected and found to be in conformance with the requirements contained in the current residential transient occupancy safety checklist, as developed and amended from time to time, by the Mariposa County Fire Department. The inspection and review shall be conducted by Mariposa County Fire Department staff or designee.

G. The structure and facilities used must comply with applicable provisions of the residential transient occupancy safety checklist.

H. An on-site sign of not more than four (4) square feet shall be posted and clearly visible from the nearest road. The sign shall contain the street address and may contain the name of the owner or the establishment. Larger signs shall require planning commission approval through the variance process.

I. At a minimum, an 8-1/2 x 11 inch written notice must be placed in each rental unit, which contains the following information:

1. Instructions in case of fire or other emergency, including the name and phone number of the property owner or rental manager.

2. Quiet hours are between 10:00 p.m. and 8:00 a.m., and shall be strictly enforced.

3. Water and energy conservation measures.

4. Proper use of wood burning stoves and fireplaces.

5. Parking and snow removal requirements if necessary.

No parking on roadway is permitted during snow removal periods declared by the director of public works, pursuant to county code, Section 10.08.110.

6. An identification of the character or area in which the unit is located (i.e. rural, agricultural, residential).

7. A statement relative to respect for adjacent property owner's rights and trespassing concerns.

8. Proper trash disposal, and bear preventive/control measures if applicable.

J. Vacation rentals must place a minimum 5 x 7 inch weather-proof NOTICE that is easily and conspicuously visible at or near the main entrance to the vacation rental which contains the name and phone number of the property owner or rental manager. The property owner or rental manager must be available by phone in case of an emergency.

K. The structure and facilities used must be inspected and found in conformance with the requirements contained in the current residential transient occupancy safety checklist, as developed and amended from time to time by the Mariposa County Building Department. The inspection and review shall be conducted by the Mariposa County Building Director or designee.

L. The residential transient occupancy facility must have a valid "certificate of occupancy" issued by the Building Department or a "mobile home installation acceptance" issued by the California Department of Housing and Community Development (if required by the Building Department).

M. The following parking standards shall apply:

1. Bed and breakfast and agricultural homestay establishments shall have two (2) parking spaces for the residence plus at least one (1) space for each bedroom available for rent.

2. Vacation rental establishments shall have one (1) parking space for each bedroom to be rented.

3. Parking provided shall be maintained so that it is usable and utilized at all times during the year, when it is occupied. Parking spaces in garages may be used to meet minimum parking standards. Stacked parking spaces may be allowed for individual vacation rental facilities but are not appropriate for bed and breakfast facilities.

4. Parking spaces shall be on-site, except as follows. In the Yosemite West Subdivision, Unit 1 (Record of Survey No. 1511, Parcels 1 through 294), off-street parking spaces may be approved to achieve the minimum parking standards where it is determined by the planning and public works directors that on-site parking is not feasible. The use of off-street spaces within a right-of-way or access easement may only be allowed if the design of the parking spaces is approved by the Mariposa County Public Works Department through the encroachment permit process. If allowed and approved, off-street spaces shall be within and along the project site's frontage.

N. Prior to issuance of a transient occupancy registration certificate, the applicant shall apply to the Planning Department for site plan review and approval. The Planning Department shall forward the application to the Building Department, Health Department, County Fire Department and CalFire for review. The site plan review and approval process shall not be required for a property which has a TOT Certificate and which is transferred into or within a trust; the TOT Certificate will simply require a name change to reflect the name of the trust. The site plan review and approval process shall also not be required for a property which has a TOT Certificate and which is purchased or transferred between parents and their children, as defined by California Revenue and Tax Code §63.1(c). The TOT Certificate will simply require a name change. Information specified

in California Revenue and Tax Code §63.1(d)(1) may be required by the County. (Ord. 1074 Sec.III, 2010; Ord. 740 Sec.1, 1989).

O. Following approval by all appropriate agencies, a valid transient occupancy registration certificate shall be issued by the Mariposa County Tax Collector pursuant to Chapter 3.36 of Title 3, Mariposa County Code. The facility is not considered to be legally operating until the facility is issued a valid transient occupancy registration certificate.

P. Residential transient occupancy establishments are specifically excluded from the definition of "hotel" as described in this Title. (Ord. 1074 Sec.III, 2010).

Q. On a yearly basis, by the 30th day of April, the owner or manager of a residential transient occupancy establishment shall provide to the Planning Department on a County-approved form confirmation that the establishment complies with the following:

1. Smoke alarms and CO detectors are in working condition with fresh batteries.

2. Fire extinguishers are adequately charged.

3. The structure and any improvements or modifications were constructed under appropriate building permits or permits from the CA Housing and Community Development Department (for mobile homes).

4. The facility remains compliant with the residential transient occupancy safety checklist in effect at the time the transient occupancy registration certificate was issued.

This self-reporting requirement shall apply to all residential transient occupancy facilities, regardless of their approval date.

R. Failure of the landowner or manager to maintain the conditions and requirements of this section or failure to submit the annual facility compliance report would be deemed a violation and may result in the rescinding of the approval and Transient Occupancy Tax Certificate.

S. Mobile homes manufactured prior to January 1976 shall be prohibited from being approved for any transient occupancy within Mariposa County unless they meet the seal standards of the United States Department of Housing and Urban Development or equivalent standards established by the California Department of Housing and Community Development.

T. Transient occupancy uses shall be prohibited in a mobile home located within a mobile home park.

U. Any alterations to a mobile home structure must be or must have been approved by the California Department of Housing and Community Development through a permitting process. A mobile home with unpermitted alterations may not be approved for use for transient occupancy. It shall be the responsibility of the applicant to submit evidence of permitted alterations.

V. Only two vacation rentals shall be allowed per parcel, irrespective of the number of single-family residences located on the parcel.

(all other sections of this chapter remain unchanged)

Section II

Amend Chapter 17.148 as follows:

Chapter 17.148

DEFINITIONS

17.148.010 Definitions of terms and phrases

Agricultural homestay:

"Agricultural homestay use" means a business that provides overnight transient occupancy accommodations in five or fewer guest rooms with not more than ten (10) guests; and serves meals at any time to only registered guests, who actively participate in the guest's education and the on-site agricultural activities. Agricultural homestays are located in the residence of the property owner or accessory dwelling or other existing dwelling.

~~Bed and Breakfast or Transient Rental:~~ deleted

Bed and Breakfast:

A "bed and breakfast" means a single family structure, a single-family dwelling unit of a duplex, or a portion of such structure or dwelling unit, rented or leased for periods of thirty (30) or less consecutive days to an individual or any party, and complying with the standards contained herein. A bed and breakfast has a full time, permanent resident family, and a limited number of guest bedrooms. Breakfast or similar early morning meal is prepared each day in a kitchen appropriately permitted by the Health Department. The price of food is included in the price of the accommodations.

Boardinghouse:

"Boardinghouse" means a dwelling other than a hotel where lodging is provided for compensation as defined in Chapter 2 of the California Building Code.

Dormitory:

"Dormitory" means a residence hall providing sleeping accommodations for individuals or for groups, usually without private baths.

Duplex:

"Duplex" means a building on a single parcel containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units, and except that common entry ways may be provided.

Dwelling:

"Dwelling" means any building or portion thereof designed or used as the residence of one or more persons. Dwelling does not include dormitory.

Dwelling, multiple-family:

"Multiple-family dwelling" means a building arranged or designed to be occupied by more than two families in individual dwelling units as governed by the California Building Code.

Dwelling, single-family:

"Single-family dwelling" means one dwelling unit.

Dwelling unit:

"Dwelling unit" means a room or group of rooms, including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen, which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household. Dwelling unit does not include a recreational vehicle.

Family:

"Family" means one or more persons living together as a single housekeeping unit in a dwelling, not including any group occupying a roominghouse or boardinghouse or dormitory or hotel or motel.

Glamping:

"Glamping" means a transient occupancy facility where guests occupy detached permanent upscale tent units or similar units but which are not conventional hotel, motel, or cabin facilities and are not an agricultural homestay or camping as defined within County Code. Payment for accommodations specifically includes overnight lodging and meals, and transient occupancy tax. Units exceeding 400 square feet in area are required to comply with applicable requirements of the California Fire Code and are required to obtain a permit and approval from the fire code official.

Guesthouse:

"Guesthouse" means a detached building occupied by guests without compensation of any kind as a condition of occupancy and used as sleeping quarters only, with sanitation facilities but without cooking or housekeeping facilities.

Household:

"Household" means all the persons, related or unrelated, who occupy a single dwelling unit. Persons not living in households are classified as living in group quarters.

Kitchen:

"Kitchen" means an area with appliances or other facilities for the preparation or preservation of food that includes a gas or electric range, oven or stovetop. A kitchen does not include wet bars or specialized home canning or preserving facilities.

Hotel:

"Hotel" means any structure, or any portion of any structure which is occupied, or intended or designed for occupancy, by

transients for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, motel, studio hotel, bachelor hotel, public or private club, or cabin at a fixed location, or other similar structure or portion thereof. A hotel does not include a bed and breakfast facility, a vacation rental facility, a guest ranch or dude ranch cabin, a glamping unit, an agricultural homestay, a boardinghouse, a dormitory or other similar structure. (Ord. 704 Sec.1, 1988).

Mobile home:

"Mobile home" means a manufactured dwelling unit, transportable on its own wheels, designed and equipped to be used with or without a permanent foundation system. Mobile home includes a manufactured home, as defined in section 18007 of the Health and Safety Code. Mobile home does not include a recreational vehicle, commercial coach, or factory-built housing, as defined in Section 19971 in the Health and Safety Code. (ord. 704 Sec.1, 1988).

Residential use:

Any building or portion thereof designed or used exclusively for family living purposes which includes living, sleeping, cooking and sanitation facilities

Single room occupancy:

"Single room occupancy" means a dwelling within a hotel or motel that consists of one or two rooms and contains no sanitary facilities or food preparation facilities, or contains either, or contains both types of facilities. Single room occupancy could include an efficiency dwelling unit or a congregate residence as defined in the California Building Code.

Transient rental:

See definition for Vacation Rental.

Vacation Rental (previously known as Transient Rental):

A single family structure or a single-family dwelling unit of a duplex rented or leased for periods of 30 or less days and complying with the standards contained herein. A vacation rental is a single family structure which is available for rental to a family or a group on a transient basis. Such structures meet the definition of "Boardinghouse" as shown in this chapter.

(all other definitions in 17.148.010 unchanged)

Section III

Amend Chapter 17.334, Section 17.334.020 as follows:

Chapter 17.334

SUPPLEMENTARY USE STANDARDS

Sections:

- 17.334.010 Home based occupations.
- 17.334.020 Bed and breakfast and vacation rentals.
- 17.334.030 Day care and small residential care facilities.
- 17.334.040 Agricultural uses.
- 17.334.050 Special use provisions for historic structures.
- 17.334.055 Uses prohibited in all zones.
- 17.334.060 Interpretation by the planning director.
- 17.334.070 Transitional and supportive housing.

...

17.334.020 Bed and breakfast and vacation rentals.

For purposes of this section, residential transient rental and vacation rental have the same meaning. Bed and breakfast and vacation rental establishments (residential transient occupancy facilities) shall be a permitted use within all single family residential structures. Standards and requirements for bed and breakfast and vacation rentals are established by County Code, Zoning Section 17.108.180. Bed and breakfast and vacation rental establishments are defined in County Code, Zoning Section 17.148.010 (Ord. 1068 Sec.I, 2010).

(remainder of Section 17.334.020 ~~deleted~~)

Section IV

Amend Chapter 3.36 as follows:

Chapter 3.36

TRANSIENT OCCUPANCY TAX

...

3.36.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

A. "Due date" or "date due" shall mean the date designated by the tax collector wherein the tax is due to be paid. Should the "due date" or the "date due" fall on a Saturday, Sunday, or holiday where either the post office or county offices are closed, the "due date" or "date due" shall be the first working day following the Saturday, Sunday or holiday.

B. "Hotel" means any structure, or any portion of any structure, which is occupied, or intended or designed for occupancy, by transients for dwelling, lodging, or sleeping purposes, and includes, but is not limited to, any hotel, inn, motel, studio hotel, bachelor hotel, public or private club, at a fixed location, or other similar structure or portion thereof. A hotel does not include a "bed and breakfast" facility, a "vacation rental" facility, a "guest ranch or dude ranch cabin", a "glamping unit", an "agricultural homestay" or

other similar structure or portion thereof (collectively known as "other transient occupancy facility"), all of which are defined in Mariposa County Code, Zoning Section 17.148.010.

C. "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or portion thereof, in any hotel or other transient occupancy facility, for dwelling, lodging, or sleeping purposes.

D. "Operator" means the person who is proprietor of the hotel or other transient occupancy facility, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter, and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be in compliance by both.

E. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

F. "Remit" as used in this chapter means that the taxes due under this chapter shall be received by the tax collector on the due date or the postage containing the taxes must be postmarked no later than the due date of the tax."

G. "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel or other transient occupancy facility, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, and property, and services of any kind or nature, without any deduction therefrom whatsoever; provided, however, that "rent" shall not include lodging furnished in kind to any employee by an employer solely for the convenience of the employer.

H. "Transient" means any person who exercises occupancy, or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement, for a period of thirty (30) consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel or other transient occupancy facility, shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. This definition of "transient" shall also apply in cases where an individual or organization rents a premise for an excess of thirty (30) days as defined herein and that individual or organization allows use throughout the rental period by different individuals. (Ord. 953, Sec.I, 2000; Ord. 245 Sec.2, 1964).

3.36.030 Imposition of tax.

For the privilege of occupancy in any hotel or other transient occupancy facility, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the county, which is extinguished only by payment to the operator, or to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel or other transient occupancy facility. If for any reason the tax due is not paid to the operator of the hotel, the Tax Collector may require that such tax be paid directly to the Tax Collector. (Measure B, effective 3/27/96; Repealed Ord. 892 Sec.I, 1995; Ord. 780 Sec.1, 1990).

...

3.36.050 Operator's duties.

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 hotel, or other 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 not be added to the rent, or that, if added, any part will be refunded, except in the manner provided in sections 3.36.160 through 3.36.190. (Ord. 245 Sec.5, 1964).

...

3.36.060 Registration--Certificate.

Within thirty (30) days after the effective date of the ordinance codified in this chapter, or prior to establishing a transient occupancy business, each operator of any hotel or other transient occupancy facility shall submit an application to the planning department and obtain a "transient occupancy registration certificate" to be at all times posted in a conspicuous place on the premises. A separate certificate shall be issued for each and every separate hotel, bed and breakfast, and each individual rental unit in a vacation rental business. A separate certificate shall be issued for other transient occupancy facilities. Existing certificates which have been issued to multiple facilities under one ownership shall be converted to separate certificates (per unit, as described above) within six (6) months of the effective date of Ordinance No. 953. The certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel, bed and breakfast, vacation rental, or other transient occupancy facility business;
- C. The date upon which the certificate was issued;
- D. The number of guest rooms (if a hotel or similar operation) or bedrooms (if a residential transient occupancy facility) approved for rental. If in Wawona, the certificate shall list maximum

occupancy by number of guests, if the certificate was issued prior January 17, 2012. If the vacation rental is approved on or after April 14, 2016, the certificate for a vacation rental shall list maximum occupancy of guests as ten (10) or such lesser occupancy as desired by the owner or as required pursuant to County Code Section 17.108.180.D;

E. This "transient occupancy registration certificate" signifies that the person named on the face hereof has fulfilled the requirements of the uniform transient occupancy tax ordinance by registering with the Planning Department for the purpose of complying with zoning ordinance standards, collecting for transients the transient occupancy tax, and remitting said tax to the Tax Collector. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel or other transient occupancy facility, without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office of this county. This certificate does not constitute a permit. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.6, 1964).

3.36.070 Reporting rents and remitting tax.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax collector, make a return to the tax collector, on forms provided by the tax collector, and which may be obtained from the tax collector's office, of the total rents charged and received, and the amount of tax collected for transient occupancies. It shall be the responsibility of the operator to obtain the forms as described herein. If an operator has been issued more than one transient occupancy registration certificate, the operator shall report the tax collected and due on each unit that has a transient occupancy registration certificate. The operator may remit payment in one check for multiple units, but the accounting for tax collected and due shall be itemized for each separate certificated rental unit. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax collector. The Tax Collector may establish shorter reporting periods for any certificate holder if he deems it necessary in order to insure collection of the tax, and he may require further information in the return. Returns and payments are due immediately 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 county until payment thereof is made to the tax collector. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.7, 1964).

3.36.080 Penalty--Original delinquency.

Any operator who fails to remit any tax imposed by this chapter within the time required (due date) shall pay a penalty of ten percent (10%) of the amount of the tax in addition to the amount of the tax. The board of supervisors shall have the authority to waive penalties imposed by section 3.36.080 and section 3.36.090 when the Board of Supervisors determines in a public meeting that good cause exists for

waiving the penalties. (Ord. 977 Sec.I, 2002; Ord. 953 Sec.I, 2000; Ord. 245 Sec.8(a), 1964).

3.36.090 Penalty--Continued delinquency.

When taxes remain unpaid at 5 p.m., or the close of business whichever is later, on the last day of the second succeeding calendar month after delinquency, operator shall pay an additional penalty of one and one half percent (1-1/2%) per month together with any actual costs of collection incurred by the county up to the time the delinquency is paid [§2922(c), (d)]. In the event taxes are not received by the Tax Collector on the due date, the Tax Collector shall, within thirty (30) days of the delinquency notify the operator, in writing, of the delinquency and the addition of penalties for failure to pay on the due date and additional penalties to be added.

This additional penalty attaches on the first day of every month thereafter until payment is made or a court judgment is entered, whichever occurs first. (Ord. 953 Sec.I, 2000; Ord. 245 Sec. 8(b), 1964).

3.36.100 Penalty--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 (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in sections 3.36.080 and 3.36.090. (Ord. 245 Sec.8(c), 1964).

...

3.36.120 Failure to collect and report tax--Determination of tax by Tax Collector.

If any operator fails or refuses to collect the tax, and to make, within the time provided in this chapter (due date), 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 any 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, and penalties 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, postage prepaid, addressed to the operator so assessed at his last known place of business. Such operator may within ten (10) calendar days after the serving or postmark of such notice make application in writing to the Tax Collector for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Tax Collector, shall become final and conclusive, and immediately due and payable. If such application is made, the Tax Collector shall give not less than five (5) calendar days written notice in the manner prescribed herein to the operator to

show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Tax Collector shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after fifteen (15) calendar days unless an appeal is taken as provided in section 3.36.130. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.8(e), 1964).

3.36.130 Appeal to board for grievance with decision of Tax Collector.

This section shall apply only to section 3.36.120 above. There is no appeal for late payment of taxes. Any operator aggrieved by any decision of the Tax Collector with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Board of Supervisors by filing a notice of appeal with the Clerk of the Board of Supervisors within twenty (20) calendar days of the personal service or postmark of the determination of tax due by the tax collector. The Board of Supervisors shall fix a time and place for hearing such appeal, and the Clerk of the Board shall give notice in writing to such operator at his last known place of address. The findings of the Board of Supervisors shall be final and conclusive, and shall be served upon the appellant 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. As a condition precedent to the appeal rights contained herein the operator must pay the taxes determined by the tax collector. Should the operator prevail in the appeal the taxes determined not to be due shall be refunded. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.9, 1964).

3.36.140 Records to be kept by operators.

It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the county, which records the Tax Collector shall have the right to inspect at all reasonable times. (Ord. 245 Sec.10, 1964).

3.36.150 Refund--Procedure.

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 county under this chapter, it may be refunded only upon a verified claim filed by the person who paid the tax, his guardian, executor or administrator, provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Collector within three (3) years of the date of payment. The claim shall be on forms furnished by the Tax Collector. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.11, 1964).

3.36.160 Refund--Claim by operator.

An operator may claim a refund or take as credit against taxes to be 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. 953 Sec.I, 2000; Ord. 245 Sec.12(a), 1964).

3.36.170 Refund--Claim by transient.

A transient may obtain a refund of taxes overpaid, or paid more than once, or erroneously or illegally collected or received by the county by filing a claim in the manner provided in section 3.36.160, 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. 953 Sec.I, 2000; Ord. 245 Sec.12(b), 1964).

...

3.36.210 Failure to obtain certificate and pay taxes-- Penalty.

Should an operator fail to obtain a certificate as required in section 3.36.060 above, and fail to pay taxes as due hereunder, the operator shall be subject to a penalty equal to twice the amount of taxes due as determined by the Tax Collector pursuant to the method as described in section 3.36.120 above. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.14, 1964).

(all other sections of this chapter remain unchanged)

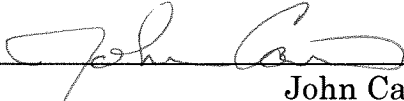
Section V: If any provision of this ordinance is held to be unconstitutional, preempted by federal law, or otherwise invalid by any court or competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Section VI: This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

PASSED AND ADOPTED on this 15th day of March, 2016, by the following vote:


AYES: SMALLCOMBE, JONES, CARRIER

NOES: LONG, CANN
ABSTAINED: NONE
EXCUSED: NONE
NOT VOTING: NONE



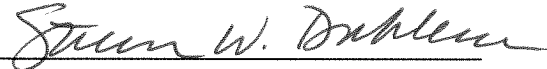
John Carrier, Chair
Mariposa County Board of Supervisors

Attest:



René LaRoche
Clerk of the Board of Supervisors

APPROVED AS TO FORM:



Steven W. Dahlem
County Counsel