RESOLUTION - ACTION REQUESTED 2015-344

MEETING: July 7, 2015

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Initiate General Plan and Ordinance Amendments for Transient Occupancy Facilities

RECOMMENDATION AND JUSTIFICATION:
Adopt a Resolution initiating a General Plan/County Code Amendments to amend policies and regulations for Residential Transient Occupancy Facilities.

Justification (summary):

1) Amendments to the regulatory text for residential transient occupancy facilities are needed to address the Building Department’s concerns and authority, relative to their involvement in the inspection and permitting of a residential transient occupancy facility.

2) Amendments are needed to ensure internal county code consistency and General Plan/County Code consistency.

3) Organizational amendments are proposed so that regulations will be located in only one place (not multiple places in code and general plan documents).

4) Amendments are proposed to reflect current procedures.

5) Adds parking standards, a requirement for indemnification, and an annual self-inspection/self-reporting process.

The attached memorandum explains the amendments and justification in greater detail.

The attached draft resolution shows the exact text of the recommended amendments.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
Zoning ordinance provisions and regulations for bed and breakfasts/residential transient rentals have been in place since at least 1988 (provisions have been modified since that time).

The General Plan was adopted in 2006.
There is no history of Board actions regarding this specific proposal.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
1. Modify any of the draft amendment text.
2. Remove any of the draft amendment text.
3. Establish limit to number of Transient Occupancy Tax (TOT) Certificates which could be issued to any one property owner or business.
4. Establish limit to number of TOT Certificates which could be issued to any one parcel.
5. Modify Title 3 to require that TOT certificate be issued to the parcel (to "run with the property"), and not to an individual property owner.

FINANCIAL IMPACT:
None, other than allocation of staff time

ATTACHMENTS:
150625 BOS-Initiate GP & ZO Amendments for B&Bs and Vacation Rentals (DOC)
150707 Draft BOS Resolution Initiating TOT Amendments BOS Packet (DOC)

CAO RECOMMENDATION
Requested Action Recommended

Mary Hodson, CAO 7/2/2015

RESULT: ADOPTED [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Marshall Long, District III Supervisor
AYES: Smallcombe, Jones, Long, Cann, Carrier
STATE OF CALIFORNIA  
COUNTY OF MARIPosa  
BOARD OF SUPERVISORS

Resolution
No 2015-344  
A Resolution Initiating General Plan/County Code Amendments to Amend Text Relating to Residential Transient Occupancy Facilities

WHEREAS, the Mariposa County Building Department raised concerns relating to its authority to review and approve the use of single family residential structures for commercial bed and breakfast and vacation rental uses; and

WHEREAS, this concern is driven by a desire on the part of the Building Department to ensure that approvals of such uses in single family residential structures are consistent with State Building and Residential codes and County liability is reduced to the maximum extent feasible; and

WHEREAS, the Planning Department believes the process of addressing Building Department concerns provides an opportunity to update, standardize and make consistent all text relating to bed and breakfast and vacation rental facilities contained in the General Plan and County Code titles addressing bed and breakfast and vacation rental facilities; and

WHEREAS, this consistency effort extends to addressing standards contained in adopted area plans throughout the County; and

WHEREAS, the Planning, Building, and Health departments, as well as the Tax Collector, have worked together to propose text amendments for initiation and public review; and

WHEREAS, the proposed amendments affect Volumes I and II of the General Plan and County Code Titles 3 and 17, and

WHEREAS, the Wawona Town Planning Advisory Committee has reviewed the proposed amendments and made a recommendation; active committees from other affected planning areas will also have the opportunity to review the proposed amendments and make a recommendation; and

WHEREAS, the Board believes the proposed amendments address the Building Department's concerns and bring County planning documents into consistency with respect to bed and breakfast and vacation rental facilities.

NOW BE IT THEREFORE RESOLVED THAT, the Board of Supervisors does hereby adopt this resolution to initiate amendments to Mariposa County Code, Zoning Section 17.108.180 as shown in Attachment 1 (Bed and Breakfasts and Residential Transient Rentals); Mariposa County Code, Zoning Section 17.148.010 as shown in Attachment 2 (Definitions); Mariposa County General Plan Appendix A as shown in Attachment 3 (Definitions); Mariposa County Code, Zoning Chapter 17.334 as shown
in Attachment 4 (Bed and Breakfasts and Residential Transient Rentals); Mariposa County General Plan Volume II, Wawona Specific Plan Section 5 and Appendix 1, Section A1.1.1 as shown in Attachment 5 (Glossary and Regulations and Standards); Mariposa County General Plan Volume II, Mariposa Town Plan Section 3.12 as shown in Attachment 6 (Bed and Breakfast and Residential Transient Rentals); Mariposa County General Plan Volume II, Fish Camp Specific Plan Section VI.H as shown in Attachment 7 (Bed and Breakfasts and Residential Transient Rentals); Mariposa County General Plan Volume II, Coulterville Town Plan Section VI.4 (Home Occupations); and Mariposa County Code, Revenue & Finance Chapter 3.36 as shown in Attachment 9 (Transient Occupancy Tax).

**ON MOTION BY** Supervisor Smallcombe, seconded by Supervisor Long, this resolution duly passed and adopted this 7th day of July 2015 by the following vote:

**AYES:** Smallcombe, Jones, Long, Cann, Carrier

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

[Signature]
Merlin Jones, Chair
Mariposa County Board of Supervisors

Attest:

[Signature]
René LaRoche
Clerk of the Board of Supervisors

Approved as to Form:

[Signature]
Steven W. Dahlem
County Counsel
ATTACHMENT 1

Proposed changes to Mariposa County Code, Zoning Section 17.108.180

Chapter 17.108

SUPPLEMENTARY STANDARDS

17.108.180 Bed and breakfast and vacation residential transient rentals.

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

Bed and breakfast and vacation transient—rental establishments (residential transient occupancy facilities) shall be considered a permitted home enterprise in all principal zones, except the AE, M-1 and M-2 zones. 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. These home enterprises 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. As a single-family structure in which there is a full-time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential transient establishments are defined as a single-family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single-family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single-family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single-family dwelling for purpose of this chapter. 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 residential transient 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 residential transient 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 (insert effective date of ordinance), 2015 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”. Lettering shall be clearly visible through contrast from the background and a minimum of 1-1/2 inches in height and width.

BD. 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.

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 CCR Title 22 code requirements for transient non-community water systems.

E. 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 and shall be approved by the Mariposa County Fire Department staff or designee.

EF. The structure and facilities used must be approved by all fire protection agencies necessary to comply with applicable provisions of the Public Resources Code residential transient occupancy safety checklist.

EG. 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.

EH. 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.

FI. Non-owner occupied Vacation Transient 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 Transient Rental which contains the name and phone number of the property owner or rental manager. Property owner or rental manager must be available by phone in case of an emergency.

GJ. At the time the permit is approved, the structure must be found in conformance with current building code requirements by the chief building inspector relative to the basic health, safety and welfare of the occupants 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.

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

L. On or after [insert effective date of ordinance], 2015, a bed and breakfast facility shall be equipped with a fire sprinkler system as required by the California Residential Code. This requirement shall only apply to new structures. Existing structures and existing bed and breakfast facilities which are being permitted following a property ownership change are not subject to this requirement.

NM. The following on-site 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 Residential transient rental establishments shall have one (1) parking space for each bedroom to be rented.

3. Parking provided shall be maintained so that it is accessible, 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. The applicant shall apply to the Mariposa County planning department for site plan review and approval. The planning department shall forward the application to the building department, health department, and county fire department and CalFire protection agency for review. (Ord. 1074 Sec.III, 2010; Ord. 740 Sec.1, 1989).

O. Prior to the issuance of a transient occupancy registration certificate the property owner or applicant shall execute an agreement with Mariposa County indemnifying, protecting, defending, and holding harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. The agreement shall be in a form approved by Mariposa County Counsel.

P. 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.

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

R. On a yearly basis 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 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 requirement shall apply to all residential transient occupancy facilities, regardless of their approval date.
S. Failure of the landowner to maintain the conditions and requirements of this section or failure to submit the annual facility compliance report may result in the rescinding of the approval and Transient Occupancy Tax Certificate.

T. 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.

U. A transient occupancy application submitted for a mobile home located within a mobile home park must be accompanied by a document which confirms that the use is allowed by park rules.

V. 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.
ATTACHMENT 2
Proposed changes to Mariposa County Code, Zoning Section 17.148.010

Chapter 17.148
DEFINITIONS

Sections:

17.148.010 Definitions of terms and phrases.

Accessory Dwelling:
"Accessory dwelling" means either an attached or detached dwelling unit which provides potential living facilities for one or more persons. Included are caretaker quarters. (Ord. 1074 Sec.II, 2010).

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) adult guests; (children accompanied by a guardian do not count as adult guests, but the total number of guests must not exceed fifteen (15) persons); 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:
A single family structure, a residential unit of a duplex, a residential condominium unit, or an apartment unit within a commercial structure with only one such unit, or a portion of such residential units, rented or leased for periods of 30 or less days and complying with the standards contained herein. (Ord. 862 Sec.I, 1993).

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 unperced wall extending from ground to roof or an unperced 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, regulated by uniform building code and uniform fire code, where guests occupy detached permanent upscale tent units or similar units but which are not conventional hotel, motel, of 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.

**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, tourist home or house, motel, studio hotel, bachelor hotel, lodginghouse, roominghouse, apartment house, dormitory, public or private club, or cabin mobile home, 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, a glamping unit, an agricultural homestead, a boardinghouse, a dormitory or other similar structure. (Ord. 704 Sec.1, 1988).

**Mobile home:**
"Mobile home" means a manufactured dwelling unit, is a structure, transportable on its own wheels, in one or more sections, measuring eight (8) feet or more in width and thirty two (32) feet or more in length, and which is built on a permanent chassis and designed and equipped to be used as a permanent dwelling, with or without a permanent foundation system, when connected to required utilities. 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 in accordance with the requirements of the California Residential Code Uniform Building Code for residential structures.

**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)
ATTACHMENT 3

Proposed changes to Mariposa County General Plan, Appendix A

Mariposa County General Plan, Appendix A Glossary of Terms, Definitions

17. Bed and breakfast-inn. “Bed and breakfast-inn” means a single family structure, a single-family dwelling unit of a duplex, or a portion of such structure or dwelling unit, in which there is a full time, permanent resident family, and a limited number of guest bedrooms not exceeding five. These are rented as transient occupancies to different guests, and 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.

163. Transient occupancy. “Transient occupancy” means residency in a hotel, bed and breakfast, vacation rental or similar facility dwelling for thirty or fewer calendar days at a time.

164. Transient rental. “Transient Rental” means “vacation rental.”

172. Vacation rental. “Vacation rental” means the commercial rental of an entire single family structure or a single-family dwelling unit of a duplex for short-term periods of less-than-thirty or fewer calendar days at a time.

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1 The number of bedrooms is limited by zoning regulations and policies within the General Plan or appropriate area plans. A bed and breakfast inn with more than five guest rooms is considered a motel and shall be located on lands zoned for a motel.

2 “Vacation rental” replaces the term “transient rental.”
ATTACHMENT 4
Proposed changes to Mariposa County Code, Zoning Chapter 17.334

CHAPTER 17.334
SUPPLEMENTARY USE STANDARDS

Sections:

17.334.010 Home based occupations.
17.334.020 Bed and breakfast and vacation residential transient 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 residential transient rentals.
For purposes of this section, residential transient rental and vacation rental have the same meaning. Bed and breakfast and vacation transient rental establishments (residential transient occupancy facilities) shall be considered 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 as a single family residential structure in which there is a full time permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the health department. Residential transient establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. The following requirements shall apply. (Ord. 1068 Sec. I, 2010). A. No more than three (3) bedrooms are available for occupancy by transients for residential transient rentals.

A. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments. (Ord. 1068 Sec. I, 2010).
B. The structure and facilities used shall be approved for each use by the Mariposa County health department and shall at a minimum comply with the following standards:

1. The residence shall be served by an approved community sewage disposal system, or have an individual system satisfying current code requirements;

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

C. The structure and facilities used shall be approved by the applicable fire protection agency and comply with applicable provisions of the Public Resources Code.

D. A sign of not more than four (4) square feet shall be posted and clearly visible from the nearest road. The sign shall require the street address and may contain the name of the owner or the establishment. Larger signs shall require planning commission approval.

E. 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;

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 of area in which the unit is located (i.e. rural, agricultural, residential);

7. A statement relative to respect for adjacent property owners’ rights and trespassing concerns.

F. At the time the permit is approved, the structure must be found in conformance with current building code requirements by the chief building inspector relative to the basic health, safety and welfare of the occupants.

G. The following on-site parking standards shall apply:

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

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

3. Parking provided shall be maintained so that it is accessible, usable, and utilized at all times during the year, when it is occupied.

H. The applicant shall apply to the Mariposa County planning department for site plan review and approval. The planning department shall forward the application to the building department, health department, and a fire protection agency for review.
Following approval by all appropriate agencies, a valid transient occupancy registration certificate shall be issued by the Mariposa County treasurer/tax collector's office. (Ord. 822, Sec. I, 1992).

(all other sub-sections of this chapter remain unchanged)
ATTACHMENT 5; General Plan Volume II (Wawona Specific Plan) Amendments.
New text shown in underlined font. Deleted text shown in strikethrough font.

Version 7/7/15

ATTACHMENT 5
Proposed changes to the Wawona Specific Plan
Section 5 and Appendix 1, Section A1.1.1
(Mariposa County General Plan Volume II)

5 SPECIFIC PLAN GLOSSARY

5.2 Glossary Definitions

The following words shall have the meaning assigned for use within the Wawona Specific Plan.

B. "Bed and Breakfast" A single-family structure which is available for rental on transient basis and which is also occupied by a non-transient. Bed and breakfast establishments are defined in County Code, Zoning Section 17.148.010.

X. "Transient Vacation Rentals" A single-family structure which is available for rental to a family or a group on a transient basis. Vacation rentals are defined in County Code, Zoning Section 17.148.010.
Appendix 1

Specific and General Site Use Regulations and Standards

A1.1 Regulations Applicable to Specific Land Use Districts

A1.1.1 Mountain Residential District No. 1 (MR1)

Standards

G. Special Residential Use Standards: The general use regulations within the Mountain Residential District are modified as follows:

2. Home occupations:

a. Home based operations are permitted in residential areas. "Home Occupation" shall mean a use which is customarily carried on within a dwelling, accessory structure, or mobile home by the inhabitants thereof, which use is clearly incidental and secondary to the residential use of the dwelling, accessory structure, or mobile home, and which use:

i. Is confined completely within the dwelling or mobile home and occupies not more than thirty-three (33%) percent of the gross area of one (1) floor thereof;

ii. Is operated only by the family occupying the dwelling or mobile home;

iii. Produces no evidence of its existence in the external appearance of the dwelling, mobile home, or premises, or in the creation of noise, odors, smoke, or other nuisances to a degree greater than that normal for the neighborhood in which such use is located;

iv. Does not generate pedestrian or vehicular traffic beyond that normal for the neighborhood in which use is located;

v. Meets the requirements of the Building Department and fire district of jurisdiction;

vi. Requires no additions or extensions to the dwelling or mobile home, unless approved under use permit provisions; and

vii. No signs allowed for advertising business.

b. Prior to the establishment of a home occupation, the following procedures shall be followed:

i. A notice of intent to establish a home occupation shall be filed with the Mariposa County Planning Department on a form approved by the Planning Department and a fee paid as established by ordinance by the Board of Supervisors;

ii. The Mariposa County Planning Department shall post a notice on the subject property, or residence in a conspicuous manner for a period of
fifteen (15) consecutive days and notice to be sent to the National Park Service and all property owners within three hundred (300) feet of the proposed home occupation;

iii. The notice shall briefly describe the intended home occupation;

iv. The filing of a petition signed by fifty percent (50%) of the residents or property owners residing within three hundred (300) feet of the proposed home occupation site, which protests the intended activity and filed with the Mariposa County Planning Department within twenty (20) calendar days of posting subject property, shall require such proposed home occupation to be permitted by conditional use permit only;

v. Absence of such a protest petition being filed as described above, the Planning Department shall issue a notice of approval to the applicant within ten (10) working days of the closing of a protest petition filing date.

3. Transient Lodging:

Standards for vacation rentals are as established by County Code, Zoning Section 17.108.180 with the following exceptions:

a. Parking:

   i. One (1) parking space on site must be provided for each bedroom available for rent.

   ii. Number of vehicles may not exceed space provided on site. Parking on the traveled way of streets or roads shall be prohibited.

b. Rental Limitations: In addition to the requirements established by County Code, Zoning Section 17.108.180, each vacation rental unit shall comply with the following:

   i. Only one single family dwelling per legal parcel.

   ii. Have a certificate of transient occupancy in accordance with Mariposa County Code.

   iii. Conform with all Mariposa County rules and regulations.

   iv. Contain a minimum of one (1) fire extinguisher of ten (10) pound size per rental.

c. Written Notices Which Must Be Placed In Each Rental Unit:

   i. Instructions in case of fire.

   ii. Noise must be kept to a minimum so as not to annoy neighbors.

   iii. Noise must be eliminated by 10 p.m.

d. In addition to the requirements to establish a vacation rental pursuant to County Code, Zoning Section 17.108.180, Prior to a landlord providing for transient lodging, the following procedures shall be followed:

   i. The National Park Service shall be sent notice of the application pursuant to other provisions contained herein. A notice of intent to provide transient lodging shall be filed with the Mariposa County Planning Department on a form approved by the Planning Department and a fee paid as established by ordinance of the Board of Supervisors.
ATTACHMENT 5; General Plan Volume II (Wawona Specific Plan) Amendments.

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ii. — The Mariposa County Planning Department shall inspect premises for compliance with this section and shall issue a notice of approval to the applicant if all conditions of this section are met. Failure of the landowner to maintain the conditions of this section could result in the rescinding of the notice of approval.

[STAFF NOTE: These standards also apply to Mountain Residential District No. 2 (MR2) and Limited Commercial District (LC) pursuant to the standards for those districts.]
ATTACHMENT 6

Proposed changes to the Mariposa Town Plan Section 3.15
(Mariposa County General Plan Volume II)

SECTION 3 LAND USE DEVELOPMENT STANDARDS AND REGULATIONS

3.1 ZONING DISTRICTS

... 

SECTION 3.15 SUPPLEMENTARY USE STANDARDS

B. Bed and Breakfast and Vacation-Residential Transient Rentals

For purposes of this chapter, residential transient rental and vacation rental have the same meaning. Bed and Breakfast and Vacation-Residential Transient Establishments (residential transient occupancy facilities) shall be considered 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 as a single-family residential structure in which there is a full-time, permanent resident family, and a limited number of guest bedrooms. Breakfast is prepared each day in a kitchen appropriately permitted by the Health Department. Residential Transient Establishments are defined as a single family structure which is available for rental to a family or a group on a transient basis. These structures are also defined as single family dwelling units where in title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas. Notwithstanding other code provisions, a duplex shall be considered a single family dwelling for the purpose of this chapter. The following requirements shall apply:

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

2. No more than five (5) bedrooms are available for occupancy by transients for bed and breakfast establishments.

3. 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:

   a. The residence shall be serviced by an approved community sewage disposal system, or have an
individual system satisfying current code requirements.

b. Water supply shall be by an approved community system, or from an individual well having quality and quantity satisfying current code requirements.

2. The structure and facilities used shall be approved by the applicable fire protection agency and comply with applicable provisions of the Public Resources Code.

5. A sign of not more than four square feet shall be posted and clearly visible from the nearest road. The sign shall require the street address and may contain the name of the owner or establishment. Larger signs shall require Planning Commission approval.

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

a. Instructions in case of fire or other emergency.

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

c. Water and energy conservation measures.

d. Proper use of wood-burning stoves and fireplaces.

e. 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.

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

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

7. At the time the permit is approved, the structure must be found in conformance with current building code requirements by the Chief Building Inspector relative to the basic health, safety and welfare of the occupants.

8. The following on site parking standards shall apply.
a. Bed and breakfast establishments shall have two (2) parking spaces for the residence plus at least one (1) space for each bedroom available for rent.

b. Residential transient rental establishments shall have one (1) parking space for each bedroom to be rented.

c. Parking provided shall be maintained so that it is accessible, usable, and utilized at all times during the year, when it is occupied.

9. The applicant shall apply to the Mariposa County Planning Department for site plan review and approval. The Planning Department shall forward the application to the Building Department, Health Department, and a fire protection agency for review.

10. Following approval by all appropriate agencies, a valid transient occupancy registration certificate shall be issued by the Mariposa County Treasurer/Tax Collector's Office.
ATTACHMENT 7

Proposed changes to the Fish Camp Specific Plan, Section VI.H
(Mariposa County General Plan Volume II)

H. Bed and Breakfast and Residential Transient Vacation Rentals.

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

1. Prior to the establishment of a Bed and Breakfast Inn—or Transient—Vacation Rental activity, a notice of intent to establish such a use—activity shall be filed with the Mariposa County Planning Department on an application form and a fee paid as established in accordance with County Resolution. Thereafter, the Planning Department shall post a notice of the proposed activity—use on the subject property in a conspicuous manner for a period of not less than fifteen (15) calendar days and copy of such notice shall be mailed to all property owners within 300 feet of the exterior property lines of the parcel containing the proposed activity.

The filing of a petition with the Planning Department on a County approved form signed by fifty percent (50%) of the property owners within 300 feet of the exterior property lines of the parcel containing the proposed activity protesting such application within twenty (20) calendar days after such notice has been mailed shall require the proposed activity to obtain a conditional use permit. If a property owner owns more than one (1) parcel within the 300 foot notice area, that property and property owner shall not be counted more than one (1) time.

In the absence of such a petition (as described above), the Planning Department shall issue a notice of approval to the applicant providing that all requirements as set forth herein have been satisfied.

2. Land Use Provisions:

Bed and Breakfast establishments are defined as a single family structure which is occupied and operated by the resident who may provide or make available a morning meal on the premises defined in County Code, Zoning Section 17.148.010.

Residential—Transient Vacation rental establishments are defined as a single family structure which is available for rental to an individual, or a family or a group on a
transient basis for a period not to exceed twenty-nine (29) days. These structures are also defined as single family dwelling units wherein title is held by a deed which describes only that property on which the structure is located or the single family dwelling unit together with any common areas defined in County Code, Zoning Section 17.148.010.

Notwithstanding other Specific Plan provisions, a duplex shall be considered a single family dwelling for the purpose of this section is defined in County Code, Zoning Section 17.148.010. Both Bed and Breakfast and Residential Transient/vacation Rentals—rentals shall meet the following requirements:

3. Use Requirements:

Prior to the issuance of a Bed and Breakfast or Transient Occupancy permit, the following requirements shall be met: Bed and breakfast and vacation rental establishments are subject to all applicable standards contained in County Code, Zoning Section 17.108.180 with the following exceptions:

a. No more than three (3) bedrooms are available for occupancy by transients.

b. The residence shall be serviced by an approved community sewage disposal system, or have an individual system satisfying building and health code requirements.

c. Water supply must be verified to be available from an approved community system, or from an individual well having quality and quantity satisfying health code requirements.

d. The structure and facilities used shall be approved by all agencies necessary to comply with applicable provisions Resources Code, and applicable County ordinance.

e. At the time the application for permit is approved, the structure must be found in conformance with building code requirements by the Chief Building Inspector relative to the basic health/safety and welfare of the occupants.

f. Signs shall comply with the provisions in Section VI B 6 g 3.

c. A bed and breakfast or residential transient/vacation rental may include other uses which comply with the home occupation section of this Specific Plan.

d. At minimum an 8 1/2 x 11-inch written notice must be placed in each rental unit which contains the following information:
3. Instructions in case of fire or other emergency.

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

5. Water and energy conservation measures.

6. Proper use of wood burning stoves and fireplaces.

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

i. The following minimum on-site parking standards shall apply:

(1) Bed and breakfast establishment shall have two (2) parking spaces for the residence plus at least one (1) on-site space for each bedroom available for rent.

(2) Transient rental establishments shall have one (1) on-site parking for each bedroom.

(3) On-site parking spaces provided shall be maintained so they are accessible, and usable at all times during the year, when the residence is occupied.

A. Application Requirements:

3. The applicant shall apply to the Mariposa County Planning Department for a permit. The Planning Department shall also forward the application to the Building Department, Health Department, and appropriate fire protection agency for review.

4. Following approval by the appropriate agencies, and completion of notice period as described in Section VI.H.1., a valid transient occupancy registration certificate shall be issued by the Mariposa County Treasurer/Tax Collector's Office.

i. At the time the application for a permit is approved, the structure must be found in conformance with building code requirements by the Chief Building Inspector relative to the basic health, safety and welfare of the occupants.
ATTACHMENT 8
Proposed changes to the Coulterville Town Plan, Section VI.4
(Mariposa County General Plan Volume II)

VI. GOALS AND OBJECTIVES

4. Home Based Occupations:
Home based occupations will be permitted in all residential areas
subject to the following:

a. Home occupation shall mean a use which, as determined by the
Commission, is customarily carried on within a dwelling or
mobile home by the inhabitants thereof, which use is clearly
incidental and secondary to the residential use of the
dwelling or mobile home, and which use:

i. Is confined completely within the dwelling or mobile
home and occupies not more than thirty three (33%) percent of the gross area of the floor thereof;

ii. Is operated only by the members of the family occupying
the dwelling or mobile home;

iii. Produces no evidence of its existence in the external
appearance of the dwelling, mobile home, or premises or
in the creation of noise, odors, smoke or other
nuisances to a degree greater than that normal for the
neighborhood in which such use is located;

iv. Does not generate pedestrian or vehicular traffic
beyond that normal in the neighborhood in which use is
located;

v. Meets the requirements of the County Building
Department Chief Building Inspector and County Fire
Department district of jurisdiction; and

vi. Requires no additions or extensions to the dwelling or
mobile home, unless approved under use-permit
provisions.

vii. No signs allowed advertising business.
b. Prior to the establishment of a home occupation the following procedures shall be followed:
   i. A notice of intent to establish a home occupation shall be filed with the Mariposa County Planning Department.
   ii. The Mariposa County Planning Department shall post a notice on the subject property or residence in a conspicuous manner for a period of fifteen consecutive calendar days and notice to be sent to all property owners within 500 feet of the proposed home occupation.
   iii. The notice shall briefly describe the intended home occupation proposed.
   iv. The filing of a petition signed by 50% of the resident property owners residing within 500 feet of the proposed home occupation site, which protests the intended activity and filed with the Mariposa County Planning Department within 20 calendar days of posting subject property, shall require such proposed home occupation to be permitted by conditional use permit only. If a property owner owns more than one (1) parcel within the 500 foot notice area, that property and property owner shall not be counted more than one (1) time.
   v. Failure of such a protest petition being filed as described above, the Planning Department shall issue a notice of approval to the applicant within 10 working days of the closing of a protest petition filing date.

c. Bed and breakfast and vacation rental establishments are distinguishable from other home based occupations and are as defined in County Code, Zoning Section 17.148.010. Such establishments are allowed, subject to all applicable standards contained in County Code, Zoning Section 17.108.180 with the following exceptions:
   i. Signs must comply with 4.a.vii. above.
ATTACHMENT 9; County Code Title 3 Amendments.
New text shown in underlined font. Deleted text shown in strike-through font.

Version 7/7/15

3.36.200--3.36.210

ATTACHMENT 9
Proposed changes to Mariposa County Code, Revenue & Finance
Chapter 3.36

Chapter 3.36
TRANSIENT OCCUPANCY TAX

Sections:
3.36.010 Title.
3.36.020 Definitions.
3.36.030 Imposition of tax.
3.36.040 Exemptions from tax. (Repealed)
3.36.050 Operator’s duties.
3.36.060 Registration--Certificate.
3.36.070 Reporting rents and remitting tax.
3.36.080 Penalty--Original delinquency.
3.36.090 Penalty--Continued delinquency.
3.36.100 Penalty--Fraud.
3.36.110 Penalty--Merged with tax.
3.36.120 Failure to collect and report tax--Determination of tax by tax collector.
3.36.130 Appeal to board for grievance with decision of tax collector.
3.36.140 Records to be kept by operators.
3.36.150 Refund--Procedure.
3.36.160 Refund--Claim by operator.
3.36.170 Refund--Claim by transient.
3.36.180 Refund--Claimant to establish right by written records.
3.36.190 Actions to collect tax.
3.36.200 Violation--Penalty.
3.36.210 Failure to obtain certificate and pay taxes - Penalty.

3.36.010 Title.
This chapter shall be known as the uniform transient occupancy tax chapter of the county. (Ord. 245 Sec.1, 1964).

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, bed and breakfast establishment or transient rental as defined in section 17.148.100 of this code, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer, 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).

3.36.040 Exemptions from tax. (Repealed Ord. 892 Sec.II, 1995; Ord. 780 Sec.2, 1990; Ord. 469 Sec.B(30) and (31), 1977; Ord. 263 Sec.2, 1965; Ord. 245 Sec.4, 1964).

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, or within thirty (30) days after commencing business, pursuant to other applicable provisions of county code (title 17), whichever is later, each operator of any hotel or other transient occupancy facility--renting occupancy to transients--shall register the hotel with 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, or bed and breakfast, and for and each individual rental unit in a vacation transient--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 this 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--rental or bed and breakfast) 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 after (insert effective date of ordinance), 2015, the certificate for a vacation rental shall list maximum occupancy of guests as ten (10);
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.1, 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 ensure 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.
3.36.200--3.36.210

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).

3.36.110 Penalty--Merged with tax.

Every penalty imposed, and such interest as accrues under the provisions of sections 3.36.080 through 3.36.120, shall become a part of the tax herein required to be paid. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.8(d), 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).

3.36.180 Refund--Claimant to establish right by written records.
No refund shall be paid under the provisions of sections 3.36.160 through 3.36.190 unless the claimant establishes his right thereto by written records showing entitlement thereto and only upon a verified claim filed by the person who paid the tax, his guardian, executor or administrator. (Ord. 953 Sec.I, 2000; Ord. 245 Sec.12(c), 1964).

3.36.190 Actions to collect tax.
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 county. Any such tax collected by an operator which has not been paid to the county shall be deemed a debt owed by the operator to the county. Any person owing money to the county under the provisions of this chapter shall be liable to an action brought in the name of the county, in any court of competent jurisdiction within the county, or within the county of residence of such person, at the option of the tax collector, for the recovery of such amount. Said delinquencies shall be collected in the same manner as any unsecured tax collection procedure as provided by the California revenue and taxation code. (Ord. 953 Sec.I, 2000; Ord. 245 Sec. 12(d), 1964).

3.36.200 Violation--Penalty.
A. Any person, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this title is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) plus assessments on fines as prescribed by law, and other sections relating thereto, or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment, or pursuant to section 1.20.020 of the county code, as that section may be amended from time to time. A separate offense shall have been committed for each and every day during which a violation of any portion of this title
ATTACHMENT 9; County Code Title 3 Amendments.

New text shown in underlined font. Deleted text shown in strike-through font.

Version 7/7/15

3.36.200--3.36.210

persists. This penalty is in addition to the penalties described in section 3.36.080, 3.36.090 and 3.36.100.

B. Any operator or other person who fails or refuses to register as required herein, 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, and is punishable as aforesaid. 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 required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Ord. 953 Sec.1, 2000; Ord. 245 Sec.13, 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.1, 2000; Ord. 245 Sec.14, 1964).