

# CITY OF MOSIER

small enough to make a difference

## TOWN HALL – WASCO COUNTY COMMISSIONERS 5:30 PM

### CITY COUNCIL MEETING December 5, 2018 at 6:30 P.M. *Mosier Senior Center at 500 Second Ave*

I	5:30 pm	Town Hall – Wasco County Commissioners	60 min
II	6:30pm	Call to Order (please silence or turn-off cell phones)	
III		Agenda corrections or additions	5 min
IV	6:35 pm	<b>Business from the Audience</b> —This is an opportunity for Mosier residents and anyone else to express concerns, needs, or opportunities. Please keep your comments succinct and under two minutes. You may bring in written materials for Council and Staff to review. The Mayor can assign the issue to a future Council meeting, to a Council Committee, or to staff. Please realize that council cannot offer any response immediately, but will give the matter due consideration.	10 min
IV		Approval of: 11/07/18 - City Council Meeting Minutes	
V		<b>BUSINESS</b>	
1.	6:45 pm	Waste Connections – Jim Winterbottom	10 min
2.	6:55 pm	Dark Sky Presentation – Michael McKeag	40 min
3.	7:35 pm	TLT Ordinance First Reading – Mayor Burns	10 min
4.			
5.	7:45	Announcements –	5 min
6.			
VI	7:50 pm	Adjourn	

## **City Council Meeting Minutes November 7, 2018**

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Council: Mayor Arlene Burns, Ann Van Osdol, Lacy Gries, Emily Reed, Acasia Berry, Penny Wallace. Absent (excused): Witt Anderson

Staff: City Manager Colleen Coleman, City Planner Nick Kraemer, City Recorder Jayme Bennett

Presenting: Kathy Fitzpatrick Mid-Columbia Economic Development Transportation Mobility Manager, Alta Planning Derek Abe

**I CALL TO ORDER – Cell Phone Reminder and meeting commences 6:30 p.m.**

**II Agenda additions or corrections- Emily Reed would like the three points of interest from the City of Mosier to the Mosier Valley News back on the agenda, as previously agreed.**

**III BUSINESS FROM THE AUDIENCE- N/A**

**IV APPROVAL OF MINUTES:**

**Corrections: Darcey was not a write-in candidate, she was on the ballot, she just wasn't in the brochure.**

**Lacy Gries was not in attendance of the last meeting, she was absent: (excused).**

**Laura Westmeyer has a two-paragraph addition to the minutes that has been included in this agenda packet.**

**Motion to approve (6:34)**

**First: Acasia Berry**

**Second: Penny Wallace**

**Discussion: none**

**Vote: all in favor**

**V BUSINESS**

**1) Mobility Presentation, Kathy Fitzpatrick, MCEDD**

Mayor Burns introduced Kathy Fitzpatrick in her new role as the Transportation Mobility Manager at MCEDD. MCEDD covers 5 counties and coordinates transportation and mobility for all 5 counties. Including but not limited to: streetscape, mobility, design, assisting with transportation planning, and all aspects thereof.

Kathy also gave an overview of the diverse history of various means of transportation in the Gorge through the 1900's. The alternative modes of transportation (bikes, pedestrians) resulted in increased visitor traffic, from Hood River being connected to Mosier via the Old HWY. This increased visitor traffic allowed for the vitality of downtown Mosier again, better serving the community and creating the livability that the residents were asking for. This resulted in the Transportation System Plan (TSP).

Values: downtown revitalization, healthy and active community, socially connected community, transportation equality: (all modes are safe and welcome), protect our most vulnerable residents, peacemaking as a character of our community and environmental sustainability.

Target speeds are achieved through streetscapes, not signs. Textures, planning and removal of centerlines all reduce speeds naturally through more conscious and engaged driving. Mosier wants streets that are designed for our residents. Not just thru traffic.

City Manager Colleen Coleman asked Kathy to explain why design elements slow speed down, yet traffic gets through more efficiently and quicker. Response: More traffic gets moved through when it is slower and more predictable, and there are less stops overall. Predictability and knowing what's going to happen next, like streets that accommodate all modes of transportation, allows for less unplanned stops, and more placemaking.

Colleen - accommodating Mosier Valley agriculture is important to our community and the entire Gorge, and if we could bring the valley to the table for design then we could keep the ball rolling, so to speak, through more engagement. At the last TSP meeting there were concerns about aging in place, public transportation and residents both within the City and in the Valley expressing a desire for more access to Public Transit.

Public transportation in this region has really grown, we have the Portland bus, cat 20 times a day - that's 10 round trips - Mosier has to be at the table for the new transportation routes. It was decided Colleen Coleman would attend the regional meetings (region 4) and engaging more with the CAT discussions.

More discussion and options on parking, funding, public transportation etc.

Mayor suggests the CAT options as a newsletter item for Suzie, with monthly schedules or protocol reminders, service areas etc.

## **2) Alta Planning Intro PAC MTG 5**

Derek Abe gave an overview of how the TSP has gotten as far as it has, what values and priorities in the community have helped shaped some of the process.

Various options of potential one-way streets, or truck routes were reviewed and discussed. Many portions of the meeting were spoken in terms of trucks, because they require the largest radius, it was assumed cars have less requirements for a turn. Questions and concerns raised by Council, Fruit Growers, Valley, and City members were all addressed in technical terms and more approachable verbiage.

Streetscaping designs are for the purpose of demonstrating zones for various phases of the project on HWY 30 and are highly conceptual. The details of design and cost estimating are done at a much later stage. Concerns around trees in front of ingress and egress of Fruit Growers Bldg were alleviated. Parking concerns were raised as well as priority TSP projects, bus stop locations, parking for trail heads, and better signage all around. The technical memo will show the zones with proposed features and design elements for demonstrative and discussion purposes.

If there is a project in the TSP, it can be implemented and funded, however, if it is not already part of the TSP, it is less likely to be funded, if at all. Emily Reed would like the minutes to reflect the inclusion of the worlds longest bike chain starting on one side of town and going all the way to Hood River potentially. This would require early thought and planning to properly place the chain unbroken in various portions of our streetscapes.

Timing of implementation will be carefully planned and well-coordinated. Goal is to have all feedback incorporated by next Wednesday to work with a hard deadline of February. All concerns from the audience will need to be send to Colleen Coleman, at the City of Mosier.

**3) Community Center (JUF) Update and approval of Contract Procurements Method**

Emily Reed reported on the last Community Center Committee Meeting: UPRR testing of soil to find out if it is a viable location or not, looking at alternatives and not making any decisions on those, we will have comprehensive study and Committee report prepared for discussions.

ANN V.O. excused 8:23

Colleen: Analytics expected back from by Nov 30, or sooner, DEQ is pushing hard for an early report.

Emily: Primer on how to go about choosing the project structure to be built – committee met, voted and chose the CMCG method - like “design and build”, an Architect and Engineer is hired ahead of time and a contractor brought in at 30% design for feasibility and cost analysis. This is the best way forward to not design in isolation of the development and construction budget.

Colleen: This initial 30% will also include the net zero consultant and mechanical etc. and follow through FCD -

RFP for USDA goes out first then RFP for JUF to follow.

**Recommendation to approve the CMCG as the preferred method for the new JUF/Community Center.**

**First: Penny Wallace**

**Second: Lacy Greis**

**Discussion: none**

**Vote: all in (absent excused Ann and Witt)**

**Motion to approve (8:29)**

Announcements: Elected Essentials training in Hood River is coming up for Council and Government Elected Officials that would like a refresher. It is free and given by League of Oregon Cities. It is November 30<sup>th</sup> 2018, and we will circulate the announcement.

**Adjourn 8:37**

## **CHAPTER 8.30 OUTDOOR LIGHTING**

### **Sections:**

- 8.30.010 Purposes, Applicability and Definitions
- 8.30.020 Outdoor Lighting Standards
- 8.30.030 Procedures
- 8.30.040 Violations and Enforcement

### **8.30.010 Purposes, Applicability and Definitions.**

A. Purposes. This chapter is adopted to promote and protect the public health, safety and welfare, the visual aesthetic setting of the City of Mosier in the Columbia River Gorge National Scenic Area and the quality of life of its citizens by preserving a dark night sky. This chapter establishes standards for exterior light that reduce glare, light pollution, incidental light and “skyglow.” The specific purposes of this chapter are:

1. To provide safe roadways for motorists, cyclists and pedestrians and ensure that sufficient, but not excessive, lighting is provided where needed for safety and security;
2. To minimize the effects of glare and excessive lighting on people and property;
3. To protect a dark nighttime sky, the use and enjoyment of property, and to curtail the degradation of the nighttime visual environment;
4. To prevent light trespass in all areas of the City;
5. To allow for flexibility in the style of lighting fixtures;
6. To define practical and effective measures by which the obtrusive aspects of outdoor light can be minimized; and
7. To provide assistance to property owners in reducing nighttime light pollution, light trespass, glare and skyglow by bringing nonconforming lighting into conformance with this chapter.

B. Applicability. This chapter applies to exterior lighting associated with new development, and a review for compliance with this chapter’s substantive requirements shall be completed as part of the City’s review of a design or site plan, conditional use permit, subdivision, planned unit development, right-of-way permit and building permit. Exterior light existing on the effective date of this chapter may remain, but as preexisting light fixtures are replaced, repaired and modified, they shall be brought into compliance with the requirements of this chapter. Figure 8.1 provides a general illustration of the chapter’s requirements.



Replace This...



with This...

Figure 8.1

C. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. For purposes of this chapter, the following terms shall have the following meanings:

1. City means the City of Mosier as represented by city planner or other designated representative charged with the implementation or enforcement of this code.
2. Exterior lighting means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outdoors. Fixtures that are located indoors but intended to light something, and in fact do light something, outside are considered exterior lighting.
3. Flood light means a lamp designed to flood a well-defined area with light.
4. Full cut-off fixture means a fixture designed and installed where no light is emitted at or above a horizontal plane running through the lowest point on the fixture. Full Cut Off" fixtures are defined by the lighting industry. Full cut off fixtures are designated per the Illuminating Engineering Society of North America (IESNA) defined standard. See <http://www.darksky.org> or ask local electrical suppliers for "full-cut off" light fixtures. See Figure 8.2.

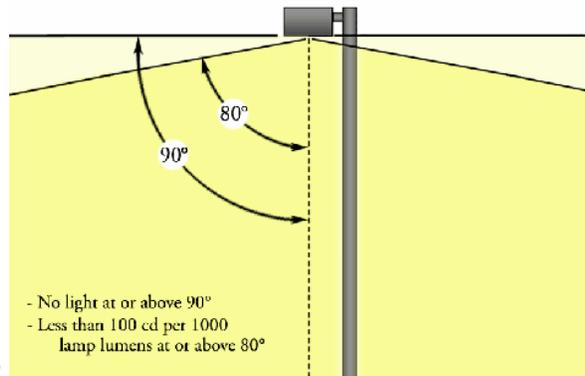


Figure 8.2

5. Fully shielded means a light that incorporates a solid barrier (the shield), which permits no light to escape through the barrier. Some uplighting may occur due to reflection off supporting portions of the light. (Figure 8.3)

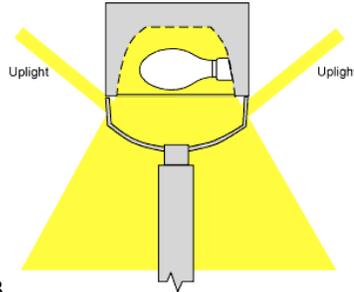


Figure 8.3

6. Glare means any stray, unshielded light striking the eye that may result in (a) nuisance or annoyance glare, such as light shining into a window; (b) discomfort glare such as bright light causing squinting of the eyes; (c) disabling glare such as bright light reducing the ability of the eyes to see into shadows or (d) reduction of visual performance. See Figure .4.



Figure 8.4

7. Holiday lighting and low wattage lighting mean strings of individual lamps in which the lamps are at least three inches apart and where output per lamp is no greater than 15 lumens. Holiday or Low Wattage Lights include 12-volt direct current lights or individual lamps less than 0.25 watts each strung together within a translucent or transparent plastic cover.
8. Light means the form of radiant energy acting on the retina of the eye to make sight possible.
9. Light pollution means any adverse effect of manmade light including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uplighting, the uncomfortable distraction to the eye, or any manmade light that diminishes the ability to view the night sky.
10. Light trespass means light falling on the property of another or the public right-of-way when it is not required to do so.

11. Lighting means all parts of a light fixture that function to produce light.
12. Lumen means the unit used to quantify the amount of light energy produced by a lamp at the lamp (light bulb). Lumen output of most lamps is listed on the packaging. For example, a 60-watt incandescent lamp produces 950 lumens while a 55-watt low-pressure sodium lamp produces 8000 lumens.
13. Non-essential lighting means lighting that is not necessary for an intended purpose after the purpose has been served, and does not include lighting used for public safety or as part of a traffic control signal.
14. Partially shielded means a fixture incorporating a translucent barrier, i.e., the “partial shield” around the lamp that allows some light to pass through the barrier while concealing the lamp from the viewer.
15. Skyglow means the overhead glow from light emitted sideways and upwards. Skyglow is caused by the reflection and scattering of light by dust, water vapor and other particles suspended in the atmosphere. Skyglow reduces one’s ability to view the night sky.
16. Temporary lighting means lighting that is intended to be used for a special event for seven days or less.
17. Uplighting means fully shielded lighting that is directed in such a manner as to shine light rays above the horizontal plane.

### **8.30.020 Outdoor Lighting Standards.**

A. General Standards. The following general standards apply to all exterior lighting:

1. All exterior lighting shall be designed, located and lamped so as to prevent:
  - a. Overlighting
  - b. Energy waste
  - c. Glare
  - d. Light Trespass
  - e. Skyglow
2. The City encourages residents to turn off all non-essential exterior, commercial and residential lighting after business hours and when not needed. Exterior lights should be equipped with timers, and outdoor security lighting should be equipped with motion sensors.
3. Canopy lights, such as service station lighting shall be fully recessed or fully shielded so as to ensure that no light source is visible from, or causes glare on, public rights-of-way or adjacent properties.

4. Area lights. All area lights shall be full cut-off type fixtures.
  5. The local electric utility shall not install any fixtures after the effective date of this chapter that light the public right-of-way without first receiving concurrence on any such proposal by the City.
- B. Types of Fixtures. All exterior lighting shall use full cut-off fixtures with the light source downcast and fully shielded, with the following exceptions:
1. Fixtures that have a maximum output of 400 lumens, regardless of the number of lamps (equal to one 40 watt incandescent light), may be left partially shielded provided the fixture has an opaque top or is under an opaque structure.
  2. Fixtures that have a maximum output of 1,000 lumens, regardless of number of lamps (equal to one 60 watt incandescent light) must be fully shielded so that the lamp is not visible. The fixtures are not required to be full cut off fixtures so long as the fixture has an opaque top or is under an opaque structure.
  3. Holiday and low wattage lighting. Flashing holiday lights are discouraged. The City encourages residents to turn off string lights by 11:00 p.m. each night.
  4. Sensor activated fixtures, provided:
    - a. They are located so as to prevent glare and light trespass onto other properties or a public right-of-way;
    - b. The fixture is set to only go on when activated and to go off within five minutes after activation has ceased;
    - c. The fixture is not triggered by activity on any adjacent property.
  5. Uplighting for flags provided the maximum lumen output is 1,300 lumens. Flags should but are not required to be taken down at sunset instead of lighting them.
  6. Lighting of radio, communication and navigation towers where the Federal Aviation Administration (FAA) has required a light that does not meet the requirements of this chapter.
  7. Neon Lights. Neon lights allowed pursuant to the City's Sign Code.
- C. Placement and Height of Fixtures.
1. Parking area fixtures shall be full cut off fixtures, no taller than 20 feet from ground to the tallest point. Parking area lights should be greater in number, lower in height and lower in light level, as opposed to fewer in number, higher in height and higher in light level.



Figure 8.5 Full cut off fixture supported by Pacificorp, the local utility that maintains city streetlights per the Manager of Street Lighting policy with Pacificorp.

2. Freestanding fixtures on private property in residential zones shall not exceed 15 feet from ground level to the top of the fixture and shall be directed downward to prevent light trespass onto adjacent properties.
3. Where underground utilities are available full cut off fixtures such as Figure 8.5 shall be mounted at a maximum of 20 feet from the ground to the top of the fixture whenever practicable. New streetlights used on arterial roads may exceed 20 feet in height only as a modification of these standards, and only with a finding that exceeding the 20-foot height limit is necessary to protect the safety of the residents of Mosier.
4. Fixtures used for athletic playing fields shall be exempt from the height restriction, provided that all other provisions of this chapter are met and the lights are used only while the field is in use.
5. No existing or new exterior lighting will be allowed to cause light trespass. Exterior lighting (including existing fixtures) shall be directed or shielded to protect adjacent properties from glare and excessive lighting.

D. Luminance and Type of Lamp.

1. Luminance levels for commercial, public, or semi public parking lots, sidewalks, and other walkways affected by side-mounted building lights, and freestanding sidewalk lights (not streetlights) shall not exceed luminance levels listed in the most current IESNA Recommended Practices. Not every such area, however, will require lighting.
2. Streetlights shall be low-pressure sodium or high-pressure sodium unless the City determines in consultation with the local utility or other experts that another type of lamp is more efficient or better suited to a specific location and lighting objective.
3. Use of High Pressure Sodium is required unless the light is motion sensor activated, in which case incandescent or instant start compact fluorescent bulbs can be used. Metal Halide bulbs (due to its higher costs, including energy use, impact on the environment, and greater contribution to "sky

glow") are allowed only upon the approval of a modification to this standard.

4. Mercury Vapor bulbs are prohibited.

#### **8.30.030. Procedures.**

- A. Review of Exterior Lighting in Conjunction with Land Use Permits. The City shall review any new exterior lighting or any existing exterior lighting on a property that is part of an application for design or site plan review, conditional use permit, planned unit development, subdivision approval, or building permit, to determine whether the exterior lighting complies with the standards of this chapter. All permit or development applications that require land use review shall include exterior lighting plans showing location, type, height, wattage and lumen output of all proposed lighting in sufficient detail to demonstrate compliance with the provisions of this chapter. The City Planner will provide a determination of compliance with this chapter and shall require any modifications necessary to meet the standards of this chapter as conditions of approval.
- B. Modifications and Replacement of Existing Exterior Lighting. Modification or replacement of existing exterior lights and light fixtures shall comply with the standards of this chapter. City staff will assist property owners by providing guidance on how to comply with this chapter's requirements and policy objectives.
- C. Modification of Standards. The standards of this chapter may be modified if the property owner or owner of the light fixture submits a written request to the City that includes the following:
  1. A complete and detailed statement of what is requested,
  2. Identification of which standard the applicant seeks to modify, how and to what degree,
  3. A justification of why the standard cannot be met or should not apply due to unusual or extraordinary characteristics of the property or its surroundings,
  4. An explanation of how the requested alternative to the standard comes as close as possible to meeting the standard and achieving the purposes of this chapter.

A modification to the standards of this chapter may be approved by the City Planner if the Planner determines that the modification request is sufficiently justified, due to unusual or extraordinary characteristics of the property or its surroundings, and demonstrates that the requested alternative comes as close as possible to meeting the standard and achieving the purposes of this chapter.

**8.30.040. Violations and Enforcement.** Violations of this chapter shall be deemed a nuisance and a civil infraction subject to civil enforcement under MMC chapter 2.10. Any person, firm, association or corporation found guilty of violating a requirement or prohibition of this chapter shall be guilty of a civil infraction and subject to a civil penalty

of no more than \$300 per violation. Each day of violation shall be a separate civil infraction.

**ORDINANCE NO. 173**

**An Ordinance amending Title 5 of the Mosier Municipal Code,  
by adding a new Chapter 10 implementing an 8% Transient Lodging Tax.**

**WHEREAS**, the City of Mosier is an Oregon home-rule charter municipal corporation with a city charter that grants it all the powers and authority that the constitution, statutes, and common law of the United States and this State expressly or impliedly grant or allow as though each such power was specifically enumerated; and

**WHEREAS**, a local transient lodging tax is a tax imposed by a local government on the sale, service, or furnishing of transient lodging, which includes dwelling units of hotels, motels, and inns, spaces used for parking recreational vehicles, tents, houses, cabins, condominiums, apartment units, and all other dwelling units, or portions of dwelling units that are used for temporary human occupancy; and

**WHEREAS**, ORS 320.350 provides that a city council may impose a new transient lodging tax if at least 70% of the net revenue from the tax is used to fund tourism promotion, tourism-related facilities, or certain debt-related expenses, and no more than 30% of net revenue is used to fund City services; and

**WHEREAS**, the Mosier City Council desires to impose an 8% transient lodging tax, and to require transient lodging tax collectors—transient lodging providers and transient lodging intermediaries, including online travel companies and short-term rental hosting platforms that accept, receive, or facilitate the payment of rent directly from transient occupants—to be responsible for collecting and remitting the tax to the City;

**WHEREAS**, as a desirable community in a scenic and increasingly popular region, Mosier is experiencing an increase in recreational travelers and tourists, and the Mosier City Council desires to put back into the community the revenue generated from the taxing of these visitors, to benefit the local economy and enhance the tourism-related facilities that create an attractive place for visitors to stay and residents to enjoy;

**NOW, THEREFORE**, the City of Mosier ordains as follows: Chapter 10 is hereby added to Title 5 of the Mosier Municipal Code as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

**READ FOR THE FIRST TIME** this 5th day of December 2018.

**READ FOR THE SECOND TIME** and adopted this \_\_\_\_ day of \_\_\_\_\_ 2018.

This Ordinance shall take effect on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Arlene Burns, Mayor

**ATTEST:**

\_\_\_\_\_  
Jayme Bennett, City Recorder

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Laura Westmeyer, City Attorney

## EXHIBIT A

### **MMC Chapter 5.10 Transient Lodging Tax (TLT)**

#### Sections

- 5.10.010 – Title
- 5.10.020 – Definitions
- 5.10.030 – Tax Imposed
- 5.10.040 – Collection of Tax by Transient Lodging Tax Collector
- 5.10.050 – Short-term Rental Hosting Platform Fees
- 5.10.060 – Liability for Tax
- 5.10.070 – Exemptions
- 5.10.080 – Registration of Transient Lodging Provider, Form and Contents, Execution, Certificate of Authority
- 5.10.090 – Tax Remittance and Filing of Returns
- 5.10.100 – Penalties and Interest
- 5.10.110 – Deficiency Determination, Fraud, Evasion, and Tax Collector Delay
- 5.10.120 – Redeterminations
- 5.10.130 – Collections
- 5.10.140 – Lien
- 5.10.150 – Refunds
- 5.10.160 – Administration
- 5.10.170 – Appeals to City Council
- 5.10.180 – Severability
- 5.10.190 – Penalty

#### **5.10.010 TITLE.**

The Mosier Municipal Code Chapter 5.10 and the sections and subsections that are hereafter set forth shall be referred to as the "Transient Lodging Tax Ordinance."

**5.10.020 – DEFINITIONS.** The following definitions apply in this chapter.

A. "Booking Service" means any reservation and/or payment service provided by a person or entity that facilitates a short-term rental transaction between a host and a prospective occupant, and for which the person or entity collects or receives, directly or indirectly through an agent or intermediary, a fee in connection with the reservation and/or payment services provided for the short-term rental transaction. Booking services include directly or indirectly accepting, receiving, or facilitating payment, whether or not the person or entity is the ultimate recipient of the payment, including through Application Programming Interfaces (APIs) or other computerized devices where third-

party providers receive information about a transaction and collect funds for the transient lodging occupancy from an occupant.

B. “Host” means the owner or person who resides at the short-term rental or has been designated by the owner or resident of the short-term rental and who rents out the short-term rental for transient lodging occupancy either directly or through the use of a hosting platform.

C. “Hosting Platform” means a person or entity that participates in a short-term rental transaction by collecting or receiving a fee for booking services through which a host may offer a transient lodging facility. Hosting platforms usually, though not necessarily, provide booking services through an online platform that allows a host to advertise the transient lodging through a website provided by the hosting platform and provides a means for the hosting platform to conduct a transaction by which prospective occupants arrange transient lodging and payment, whether the occupant pays rent directly to the host or to the hosting platform.

D. “Occupant” means any individual who exercises occupancy or is entitled to occupancy in a transient lodging facility for a period of 30 or fewer consecutive calendar days, counting portions of calendar days as full days.

E. “Person” means any individual, firm, partnership, joint venture, limited liability company, corporation, limited liability partnership, association, host, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

F. “Rent” means the consideration paid or payable by an occupant for the occupancy of a transient lodging facility valued in money, goods, labor, credits, property, or other consideration. If a separate fee is charged for services, goods, or commodities, and the fee is optional and separate from the occupancy fee, that fee is not included in or considered rent.

G. “Short-Term Rental” means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, or other residential dwelling unit where guest bedrooms or the entire residential dwelling unit may be rented for transient occupancy.

H. “Short-Term Rental Hosting Platform” means a business or other person that facilitates the retail sale, service, or furnishing of transient lodging by connecting occupants with transient lodging providers, either online or in any other manner. Short-term rental hosting platforms are transient lodging intermediaries.

I. “Tax Administrator” means the Mosier City Recorder, or any agent of the City authorized by the City Council to act as the City’s tax administrator, including the Oregon Department of Revenue when acting pursuant to an agreement with the City

under ORS 305.620 and any applicable administrative rules adopted by the Oregon Department of Revenue.

J. “Transient Occupancy” or “Transient Use” means the right to the use or possession of any space in a transient lodging facility for dwelling, lodging, or sleeping purposes for 30 or fewer consecutive calendar days, for which compensation (rent) is paid by the occupant.

K. “Transient Lodging” or “Transient Lodging Facility” means:

- (1) Hotel, motel, inn, bed & breakfast, short-term rental, and any other dwelling unit(s) used for transient occupancy;
- (2) Spaces used for overnight parking of recreational vehicles or placement of tents during periods of transient occupancy; and
- (3) Houses, cabins, condominiums, accessory dwelling units, apartment units or other dwelling units, or portions of any of these dwelling units that are used for transient occupancy.

L. “Transient Lodging Intermediary” means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

- (1) Charges for occupancy of the transient lodging;
- (2) Collects the consideration charged for occupancy of the transient lodging; or
- (3) Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

M. “Transient Lodging Provider” means a person that furnishes transient lodging.

N. “Transient Lodging Tax Collector” or “Tax Collector” means a transient lodging provider or transient lodging intermediary.

O. “TLT” or “Tax” means the transient lodging tax imposed by the City of Mosier.

#### **5.10.030 - TAX IMPOSED.**

A. Each occupant shall pay a transient lodging tax in the amount of 8% of the rent. The occupant shall pay the TLT at the same time the occupant pays rent to the transient lodging tax collector. TLT amounts shall be rounded down to the nearest cent. The tax collector shall maintain records of all rent charged and TLT payments received. If rent is paid in installments, a proportionate share of the TLT shall be paid by the occupant to the tax collector with each installment unless the occupant pays the entire amount with the first payment.

B. Bills, receipts, or invoices provided to occupants shall list the city TLT separately and must accurately state the amount of tax. All amounts listed as TLT on invoices, bills or

receipts must be reported as TLT and, after collection, must be turned over to the City, less 5% of the net TLT due that may be withheld by the tax collector under ORS 320.345 as an administrative charge.

**5.10.040 - COLLECTION OF TAX BY TRANSIENT LODGING TAX COLLECTOR.**

A. Every tax collector shall collect the TLT at the time rent is paid. For purposes of this section, if payment is by credit card, payment is made at the time the credit card information is provided to the tax collector, not when the tax collector ultimately receives credit for the transaction. While holding the payment in trust for the City, a tax collector may commingle the tax proceeds with the tax collector's funds, but the tax collector is not the owner of the tax proceeds, except that when a return is filed, the tax collector becomes the owner of the administrative fee that is authorized to be retained. Tax collectors shall record the tax when rent is collected if the tax collector keeps records on a cash accounting basis, and shall record the tax when earned if the tax collector keeps records on an accrual accounting basis. The tax collector is liable for any TLT that should have been collected from the occupant, except in cases of nonpayment of rent by the occupant.

B. Upon request of the City, tax collectors must provide the physical address of all transient lodging facilities within the city limits and related contact information, including the name and mailing address of the general manager, agent, owner, host or other responsible person for the location.

C. The tax collector shall remit TLT collected pursuant to this Chapter and shall submit reports to the City's tax administrator on a quarterly basis in accordance with Section 5.10.090.

**5.10.050 - SHORT-TERM RENTAL HOSTING PLATFORM FEES.**

A hosting platform for short-term rentals may collect a fee for booking services in connection with short-term rentals only when those short-term rentals are lawfully registered as transient lodging facilities with the City and possess a certificate of authority at the time the short-term rental is advertised, booked, and occupied.

**5.10.060 - LIABILITY FOR TAX.**

Transient lodging providers and owners who receive any portion of the rent for transient lodging, and transient lodging intermediaries that provide booking services, are all jointly and severally liable for the tax.

### **5.10.070 – EXEMPTIONS.**

No TLT shall be imposed upon the following:

- A. Transient use of a dwelling unit in a hospital, health care facility, long-term care facility, or any other residential facility that is licensed, registered or certified by the Oregon Department of Human Services or the Oregon Health Authority;
- B. Transient use of a dwelling unit in a facility providing treatment for drug or alcohol abuse or providing mental health treatment;
- C. Transient use of a dwelling unit, the consideration for which is funded through a contract with a government agency and the purpose of which is to provide emergency or temporary shelter;
- D. Transient use of a dwelling unit at a nonprofit youth or church camp, nonprofit conference center, or other nonprofit facility; or
- E. Use of a dwelling or other transient lodging facility that is leased or otherwise occupied by the same individual for 31 or more consecutive calendar days—i.e., for non-transient use. The requirements of this subsection are satisfied even if the individual changes the physical dwelling unit during the 31-day consecutive period, if:
  - (1) All dwelling units occupied are within the same facility; and
  - (2) The person paying consideration for the transient lodging is the same person throughout the consecutive period.

### **5.10.080 - REGISTRATION OF TRANSIENT LODGING PROVIDER, FORM AND CONTENTS, EXECUTION, CERTIFICATION OF AUTHORITY.**

A. Every person engaging or about to engage in business as a transient lodging provider shall provide a completed registration form to the tax administrator within 15 calendar days after commencing business. The registration form must contain the name of the transient lodging facility owner, the name of the business, any separate business address, and other information as the tax administrator may require to implement this Chapter. Transient lodging providers who own or operate transient lodging facilities in Mosier shall provide the address of each transient lodging facility. The registration form must be signed by the transient lodging provider. The tax administrator shall, upon processing the registration form, issue without charge a certificate of authority to collect the TLT. The obligation to collect the TLT is imposed once rent for transient lodging is paid, even if the registration form has not been filed or if the certificate of authority has not been issued.

B. Certificates of authority shall be nonassignable and nontransferable, and shall be surrendered to the tax administrator when the business is sold or transferred or when a

lodging facility ceases to operate at the location specified in the registration form. Each certificate issued to a transient lodging provider for a specific lodging facility shall be prominently displayed at the lodging facility and include:

- (1) The name of the transient lodging provider;
- (2) The address of the transient lodging facility;
- (3) The date the certificate was issued; and
- (4) The certificate number as assigned by the tax administrator.

C. The City's acceptance of a transient lodging registration form, issuance of a certificate of authority to collect TLT, and receipt of transient lodging tax remittances and returns shall not be interpreted as a permit for any use or purpose and do not indicate conformance with the City's Zoning Ordinance and land use regulations. Hosts and transient lodging providers are responsible for complying with the City's Zoning Ordinance and all other city laws and regulations applicable to the use of property for transient lodging.

#### **5.10.090 – TAX REMITTANCE AND FILING OF RETURNS.**

A. Tax collectors shall submit a completed tax return form to the tax administrator on or before the last day of the month following the end of each calendar quarter, reporting the amount of tax due during the preceding month, and accompanied by remittance of all tax collected, less a 5% administration fee. Returns shall be made under penalties for false swearing.

B. The tax collector is entitled to withhold the 5% administration fee. If a transient lodging facility has multiple owners or multiple transient lodging providers, they are not entitled to retain additional fees.

C. Remittances are delinquent if not made by the last day of the month in which they are due.

D. Returns shall show the gross rents collected, taxable rents, the total amount of TLT collected and the amount of the administrative fee retained by the tax collector. Returns shall also show the exempt and excluded rents and the basis for exemptions and exclusions.

E. Tax returns and remittances shall be submitted on forms and by methods specified by the City's tax administrator, which may be in person, or by mail, or electronically via a City-authorized payment platform. If the return and remittance is mailed, the postmark shall be considered the date of delivery.

F. The tax administrator may extend the time for making any return or remittance of the tax by up to 30 days for good cause shown by the tax collector. No further days or additional extensions shall be granted to a tax collector, except by the City Council. Any tax collector to whom an extension is granted shall pay interest at the rate of 10% per

month on the net TLT due without proration for a fraction of a month. If a return is not filed, and the remittance and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties.

#### **5.10.100 - PENALTIES AND INTEREST.**

- A. Interest shall be added to the overall tax amount due, at the same rate established under ORS 305.220 for each month, or fraction of a month, from the time the return to the City was originally required to be filed to the time of payment.
- B. If a tax collector fails to file a return with the tax administrator or pay the tax as required, a penalty shall be imposed in the same manner and amount as provided under ORS 314.400.
- C. Every penalty imposed, and any interest that accrues, becomes a part of the financial obligation required to be paid and remitted to the tax administrator.
- D. Taxes, interest, and penalties transferred to the tax administrator will be distributed to the City's Tourism Fund.
- E. If at any time a tax collector fails to remit any amount owed in taxes, interest, or penalties, the tax administrator is authorized to enforce collection on behalf of the City of the owed amount.

#### **5.10.110 - DEFICIENCY DETERMINATION, FRAUD, EVASION, AND TAX COLLECTOR DELAY.**

A. Deficiency Determination. The tax administrator may review tax returns and adjust the amount due based on the information in the return, on information obtained during a review or audit of records, or on the basis of other credible evidence. In the event of a deficiency, the tax administrator shall provide notice of the deficiency to the tax collector, who shall remit the deficient amount within 30 business days of the deficiency notice. Notice may be by personal delivery or certified or registered mail.

- (1) In reviewing and adjusting tax returns, the tax administrator shall offset any amount received in excess of the remittances due against any shortages in remittances.
- (2) Except in the case of fraud or intent to evade the TLT, notice of deficiency determinations shall be issued within three years of the period for which the deficiency determination is made.
- (3) The time to remit deficient payment amounts under this Section shall be extended if the tax collector timely requests a redetermination.

B. Fraud; Refusal to Collect; Evasion. If any tax collector fails to collect, report, or remit the tax as required, submits a fraudulent return, or otherwise violates or attempts to violate this Chapter, the tax administrator shall estimate the tax due, and calculate the

amount owed from the tax collector for tax remittance, interest, and penalties, and provide notice to the tax collector of the assessment. The determination and notice of deficiency shall be made and mailed within three years of the discovery by the tax administrator of the violation. The deficiency is due and payable upon receipt of notice and shall become final 30 business days after the date notice was delivered unless the tax trustee files a petition for redetermination. Notice may be by personal delivery or certified or registered mail.

#### **5.10.120 – REDETERMINATIONS.**

A. Any person affected by a determination may file a petition for redetermination with the tax administrator within 30 business days of service of notice of the tax deficiency. A determination becomes final if a petition for redetermination is not timely filed.

B. If a petition for redetermination is filed within the allowable period, the tax administrator shall reconsider the determination and grant an oral hearing if requested. The petitioner shall be allowed at least 20 calendar days to prepare for the hearing.

C. After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner. During the redetermination process, the tax administrator may agree to a reasonable compromise of the amount due if there is a good faith dispute over the amount owed.

D. The decision of the tax administrator on redetermination becomes final and payment is due 10 business days after the decision is mailed unless the petitioner files an appeal to the City Council within that time. The appeal shall be filed with the tax administrator. The City Council’s decision shall be final when reduced to writing and mailed to the petitioner, and all amounts due shall be paid within 10 business days of mailing of the City Council decision. The City Council’s decision is final.

#### **5.10.130 – COLLECTIONS.**

A. The City may bring legal action to collect on any amounts owed to the City under this Chapter within three years after a remittance is due to the City or within three years after any determination of deficiency becomes final.

B. The City shall be entitled to collect reasonable attorneys’ fees in any legal action brought to collect any amount owed to the City under this Chapter.

#### **5.10.140 – LIEN.**

The City may record a lien in the City’s lien docket and/or record the lien with the Wasco County Clerk against any real property owned by a transient lodging provider who

receives any portion of the rent from a transient lodging facility located within the City as to any delinquent remittances by the transient lodging provider. The City's lien shall have priority ahead of all other liens except as prohibited by any applicable law. The City's lien may be foreclosed as a municipal assessment lien pursuant to ORS 223.505 to 223.595 or through any other legal process.

#### **5.10.150 – REFUNDS.**

A. Refunds by the City to the Transient Lodging Tax Collector. If the tax collector remits more tax, penalty, or interest than is due, the tax collector may file a claim in writing stating the facts relating to the claim, within three years from the date of remittance. If the claim is approved by the tax administrator, the excess amount shall either be refunded or credited on any amount due from the tax collector.

B. Refunds by City to Occupant. A tax collector may file a claim for refund by filing a claim in writing within three years of payment providing the facts relating to the claim for refund. If the tax administrator determines that the tax was collected and remitted to the City and the occupant was not required to pay the tax or overpaid, the City shall issue a refund.

C. Refunds by Transient Lodging Tax Collector to Occupant. If an occupant has paid tax to a tax collector, but then stays a total of 31 or more consecutive days, the tax collector shall refund to the occupant any tax collected for any portion of the continuous stay. The tax collector shall account for the collection and refund to the tax administrator. If the tax collector has remitted the tax prior to the refund or credit to the occupant, the tax collector shall be entitled to a corresponding refund or offset if the claim for refund is filed within three years from the date of collection.

D. Burden of Proof. The person claiming the refund shall have the burden of proving the facts that establish the basis for the refund.

#### **5.10.160 – ADMINISTRATION.**

A. Use of TLT Funds. Seventy percent of the net revenue that the City receives from TLT shall be used for tourism promotion and tourism-related facilities. Thirty percent of the net revenue the City receives from TLT shall be used for city services.

B. Tourism Fund. A special tourism fund shall be established for the purpose of promoting tourism or funding tourism-related facilities within the City of Mosier. The tax administrator shall deposit 70% of all money collected under the provisions of this Chapter to the credit of the tourism fund. All moneys paid to this fund shall be used for the promotion of tourism or for funding tourism-related facilities.

C. Records Required from Tax Collector. Every tax collector shall keep records of each transaction involving rent and/or collection of TLT. All records shall be retained for at least three years and six months from the date of the record.

D. Examination of Records; Investigations. The City's tax administrator, or the City's agent for purposes of administering this Subsection, may examine, during normal business hours, all records of a tax collector relating to the receipt of rent and TLT and remittance, and may obtain copies of the records to audit returns.

E. Authority of Tax Administrator. The tax administrator shall have the power to administer and enforce this Chapter, conduct audits, and create forms consistent with this Chapter. The tax administrator shall propose rules and regulations of general application that are consistent with this Chapter for approval and adoption by the City Council. The City Council shall adopt rules and regulations under this Chapter at a public meeting with an opportunity for public comment. Adopted rules and regulations of general application shall be provided to all registered transient lodging providers. The tax administrator shall notify all registered transient lodging providers of any changes to the adopted rules and regulations. The tax administrator may issue written interpretations by request of a tax collector. As to the tax collector to whom the interpretation is issued, the City will act consistently with the interpretation until it is withdrawn, and the City shall provide 30 days' written notice of withdrawal of an interpretation. Any interpretation issued by the tax administrator may be withdrawn by the tax administrator.

F. Confidential Character of Information Obtained; Disclosure Unlawful. The City shall maintain the confidentiality of information provided by tax collectors. Nothing in this subsection shall be construed to prevent:

- (1) The disclosure to, or the examination of, records and equipment by another City official, employee, contractor, or agent for collection of taxes for the purpose of administering or enforcing any provisions of this Chapter.
- (2) Disclosure of information to the tax collector and the tax collector's agents.
- (3) The disclosure of the names and addresses of any persons to whom certificates of authority have been issued.
- (4) The disclosure of general statistics regarding taxes collected or business done in the City.
- (5) Disclosures required by ORS Chapter 192.
- (6) Disclosures required by ORS Chapter 297.

**5.10.170 - APPEALS TO CITY COUNCIL.**

Any person aggrieved by any decision of the tax administrator may appeal to the City Council by filing a written appeal with the tax administrator within 10 business days of the serving or mailing of the decision being appealed. The City Manager shall schedule the hearing on a City Council agenda and provide the appellant notice of the hearing at least 20 calendar days before the hearing. The City Council may agree to a compromise of the amount of tax remittance if a majority of the City Council who are present at the hearing determines there is a good faith dispute over the amount owed.

**5.10.180 – SEVERABILITY.**

If any section, subsection, paragraph, sentence, clause, or phrase of this Chapter, or any part thereof, is invalidated by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter or any part thereof. The Council declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or paragraphs be declared unconstitutional or otherwise invalid.

**5.10.190 – PENALTY.**

A violation of this Chapter is a civil infraction that may be enforced through MMC Chapter 2.10. Each day that a violation remains uncured is a separate citable infraction.