

## 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.