BILL NO. 1058 -C.S.
ORDINANCE NO. ___-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA AMENDING TITLE 3, CHAPTER 35 OF THE EUREKA MUNICIPAL CODE AMENDING SECTIONS 35.070 THROUGH 35.084, BRINGING INTO COMPLIANCE THE TRANSIENT OCCUPANCY TAX PROVISIONS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

WHEREAS, the City of Eureka imposes a Transient Occupancy Tax pursuant to Title 3, Chapter 35 of the Eureka Municipal Code in order to generate revenue for general governmental purposes; and

WHEREAS, the Transient Occupancy Tax is authorized under California law as a valid exercise of the City's taxing authority and police power pursuant to Article XI, Section 7 of the California Constitution; and

WHEREAS, the City has reviewed Title 3, Chapter 35 of the Eureka Municipal Code and determined that certain provisions require clarification, modernization, and updating to ensure consistency with current state law, federal law, administrative practices, and evolving lodging standards; and

WHEREAS, the City Council recently adopted amendments to the Eureka Municipal Code establishing updated Administrative Hearing Procedures, and the City Council finds it necessary to amend the Transient Occupancy Tax provisions to ensure consistency with and conformity to those updated administrative hearing procedures; and

WHEREAS, the City Council further finds that amendments to Sections 35.070 through 35.084 are necessary to improve administrative efficiency, strengthen enforcement mechanisms, ensure uniform application of the tax, and protect the City's revenue base; and

WHEREAS, the City Council desires to update the Transient Occupancy Tax provisions to reflect contemporary practices, enhance compliance, and maintain the fiscal stability of the City; and

WHEREAS, the City Council finds that adoption of this Ordinance is in the best interests of the public health, safety, and welfare of the residents of the City of Eureka.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EUREKA DOES ORDAIN AS FOLLOWS:

BILL SECTION 1. Title 3, Chapter 35, Sections 35.070 through 35.084 of the Eureka Municipal Code is amended to read as follows:

TRANSIENT OCCUPANCY TAX

§ 35.070 SHORT TITLE.

This ~~subchapter~~section ~~shall be~~is known and may be cited as the "Transient Occupancy Tax Law" of the ~~city~~City.

§ 35.071 DEFINITIONS.

For the purpose of this ~~subchapter~~section, the following definitions ~~shall~~ apply unless the context clearly indicates or requires a different meaning.

OCCUPANCY. The use or possession, or the right ~~to~~of use or possession, of any public or private campground, of any room~~,~~ or portion thereof, in any transient accommodation for dwelling, lodging~~,~~ or sleeping purposes.

OPERATOR. The person who is the proprietor of the transient accommodation, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs ~~his~~ their functions through a managing agent of any type or character other than an employee, the managing agent ~~shall~~will also be deemed an operator for the purposes of this ~~subchapter~~ section and ~~shall~~will have the same duties and liabilities as ~~his~~ the principal. Compliance with the provisions of this ~~subchapter~~ section by either the principal or the managing agent ~~shall~~must, however, be considered to be compliance by both.

~~***PERSON.*** 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.~~PERSON. "Person" includes any person, firm, partnership, general partner of a partnership, limited liability company, registered limited liability partnership, foreign limited liability partnership, association, corporation, company, syndicate, estate, trust, business trust, organization of any kind, trustee, trustee in bankruptcy, receiver, executor, administrator, or assignee.

RENT. The consideration charged, whether or not received, for the occupancy of space in a transient accommodation valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property, and services of any kind or nature, without any deduction therefrom whatsoever.

TRANSIENT ACCOMMODATION. Any structure, or any portion of any structure, or public or private campground or marina which is occupied, or intended or designed for occupancy, by transients for dwelling, lodging, or sleeping purposes and ~~shall~~will include~~s~~ any hotel, inn, tourist home or house, vacation rental, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, boat,

floating home, mobile home or house trailer at a fixed location, accessory dwelling unit, or other similar structure, or public or private campground or marina, or portion thereof.

TRANSIENT. 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 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in transient accommodation ~~shall~~must be deemed to be a transient until the period of 30 days has expired unless there is an agreement in writing between the operator and 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 provisions of this subchapter may be considered.~~

§ 35.072 TAX IMPOSED.

For the privilege of occupancy in any transient accommodation, each transient ~~shall~~will be subject to and ~~shall~~must pay a tax in the amount of 10% of the rent charged by the operator ~~on or after January 1, 2009~~. ~~Such~~ This tax ~~shall~~will constitute a debt owed by the transient to the ~~city~~City, which debt ~~shall~~ may be extinguished only by paying the debt to the operator or to the ~~city~~City. The transient ~~shall~~ must pay the tax to the operator of the transient accommodation at the time rent is paid. If the rent is paid in installments, a proportionate share of the tax ~~shall~~ must be paid with each installment. ~~The~~ Any unpaid tax ~~shall~~ will be due upon the transient's ceasing to occupy space in the transient accommodation. If for any reason the tax due is not paid to the operator of the transient accommodation, the Director of Finance may require that ~~such~~ any unpaid tax ~~shall~~ be paid directly to the Director of Finance.

§ 35.073 EXEMPTIONS.

A. No tax ~~shall~~ may be imposed upon:

1. Any person as to whom, or any occupancy as to which, it is beyond the powers of the city to impose the tax provided for in this ~~subchapter~~section; or
2. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

B. No exemption ~~shall~~ may be granted except upon a claim therefore made at the time the rent is collected and signed under penalty of perjury upon a form prescribed by the Director of Finance.

§ 35.074 OPERATOR'S DUTIES.

Each operator ~~shall~~ must collect the tax imposed by the provisions of this ~~subchapter~~ section to the same extent and at the same time as the rent is collected from every transient. The amount of tax ~~shall~~ must be separately stated from the amount of the rent charged, and each transient ~~shall~~ must receive a receipt for payment from the operator. No operator ~~shall~~ may 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 this ~~subchapter~~section.

§ 35.075 ~~REGISTRATION~~BUSINESS LICENSE.

~~On or before January 1, 1983, or w~~Within 30 days after commencing business, ~~whichever is later,~~ each operator of a hotel ~~transient accomodation~~accommodation ~~renting an occupancy to transients shall~~ mustEach operator must ~~register such that transient accommodation with the Director of Finance and obtain from him~~ the Director a ~~"Transient Occupancy Registration Certificate,"~~obtain and post in a conspicuous place in each unit an active Business License issued by the City of Eureka. ~~which shall~~ must ~~at all times be posted in a conspicuous place on the premises. Such~~ This ~~certificate shall~~must, ~~among other things, set forth the following information:~~

~~A. The name of the operator;~~

~~B. The address of the transient accommodation;~~

~~C. The date upon which the certificate was issued; and~~

~~D. A statement as follows: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Transient Occupancy Tax regulations by registering with the Director of Finance for the purpose of collecting from transients the~~ City of Eureka ~~Transient Occupancy Tax and remitting such tax to the Director of Finance. This certificate shall~~ does not authorize any person to ~~conduct any unlawful business or to conduct any lawful business in an unlawful manner,~~ not nor to operate a transient accommodation ~~without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department, or office in this city~~City. ~~This certificate shall not constitute~~is not ~~a permit."~~

§ 35.076 REPORTING AND REMITTING.

Each operator ~~shall~~must, 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~~ that may be established by the Director of Finance, make a return to the Director of Finance, on forms provided by ~~him~~the Director, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed, the full amount of the tax collected ~~shall~~ must be remitted to the Director of Finance. The remittance must be made directly by the operator to the Director of Finance; the tax is not collected by third parties such as booking platforms. The Director of Finance may establish shorter reporting periods for any certificate holder if ~~he~~ they deem~~s~~ it necessary in order to insure collection of the tax, and ~~he~~ they may require further information in the return. Returns and payments ~~shall~~ are ~~be~~ due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to the provisions of this ~~subchapter~~ section ~~shall~~

must be held in trust for the account of the Cc~~o~~ity until payment thereof is made to the Director of Finance.

§ 35.077 PENALTIES AND INTEREST.

A. *Original delinquency.* Any operator who ~~shall~~ fails to remit any tax imposed by the provisions of this ~~subchapter~~section within the time required ~~shall~~ must pay a penalty in the amount of 10% of the tax in addition to the amount of the tax.

B. *Continued delinquency.* Any operator who ~~shall~~ fails to remit any delinquent remittance, on or before a period of 30 days following the date of which the remittance first became delinquent ~~shall~~ must pay a second delinquency penalty in the amount of 10% of the tax in addition to the amount of the tax and the 10% penalty first imposed.

C. *Fraud.* If the Director of Finance ~~shall~~ determines that the nonpayment of any remittance due ~~pursuant to~~under the provisions of this ~~subchapter~~section is due to fraud, a penalty in the amount of 25% of the amount of the tax ~~shall~~ must be added thereto in addition to the penalties set forth in divisions (A) and (B) of this section.

D. *Interest.* In addition to the penalties imposed, any operator who ~~shall~~ fails to remit any tax imposed by the provisions of this ~~subchapter~~section ~~shall~~ must pay interest at the rate of 1.5% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. *Penalties and interest merged with tax.* Every penalty imposed, and such interest as accrues, pursuant to the provisions of this section ~~shall~~ will become a part of the tax required to be paid by the provisions of this ~~subchapter~~section.

F. *Waiver of penalties and interest.* Any other provision of this section to the contrary notwithstanding, if any operator ~~shall~~ fails to remit any tax imposed by this ~~subchapter~~section within the time required, the Director of Finance, on written application therefor and good cause shown, may waive any penalties and interest imposed under this section ~~provided the operator remits any tax imposed by this subchapter within 72 hours following the time the remittance first became delinquent.~~

§ 35.078 FAILURE TO COLLECT AND REPORT TAX.

A. If any operator ~~shall~~ fails or refuses to collect ~~such~~ this tax and to make, within the time provided in this ~~subchapter~~section, any report and remittance of such tax, or any portion thereof required by the provisions of this ~~subchapter~~section, the Director of Finance ~~shall~~ must proceed in such manner as ~~he~~ they may deem best to obtain the facts and information on which to base ~~his~~ their estimate of the tax due.

B. As soon as the Director of Finance ~~shall~~ procures ~~such~~ the facts and information as ~~he~~ they ~~is~~ are able to obtain ~~up~~on which to base the assessments of any ~~such~~ tax imposed by the provisions of this ~~subchapter~~section and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the Director of Finance ~~shall~~ must proceed to determine and assess against ~~such~~ that operator the tax, interest, and penalties provided for by the provisions of this ~~subchapter~~section. ~~In the event~~When this ~~such~~ determination is made, the Director of Finance ~~shall~~ will give ~~notice of the amount so assessed~~a notice of assessment by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at ~~his~~ its last known place of address. ~~Such operator may, within ten days after the service or mailing of such notice, make an application in writing to the Director of Finance for a hearing on the amount assessed. If an application by the operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any, determined by the Director of Finance shall become final and conclusive and immediately due and payable. If such an application is made, the Director of Finance shall give not less than five days' written notice in the manner prescribed in this section to the operator to show cause at a time and place fixed in 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 shall not be so fixed. After such hearing the Director of Finance shall determine the proper tax to be remitted and shall thereafter give written notice to the operator in the manner prescribed in this section of such determination and the amount of such tax, interest, and penalties. The amount determined to be due shall be payable 15 days after the service or mailing of such notice unless an appeal is filed as provided in § 35.079 of this section.~~

§ 35.079 ~~APPEALS~~JUDICIAL REVIEW.

A. An operator may appeal a notice of assessment by service or mailing a written notice of appeal to the Director of Finance within ten days of the service or mailing of the notice of assessment. An appeal hearing must be provided under the Administrative Hearing Procedures ~~Ordinance~~, Title I, Chapter 10, Sections 10.110 through 10.~~–~~118 of the Code. The determination of the appeal under the EMC ordinance code section will be final.~~Any operator aggrieved by any decision of the Director of Finance with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Council by filing a notice of appeal with the City Clerk within 15 days after the service or mailing of the determination of the tax due. The Council shall fix a time and place for hearing such appeal, and the City Clerk shall give notice in writing to such operator at his last known place of address. The findings of the Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed in this subchapter for the service of a notice of~~

~~hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.~~

B. No injunction or writ of mandate or other legal or equitable process ~~shall~~ may issue in any suit, action or proceeding in any court against the ~~c~~City or an officer thereof, to prevent or enjoin the collection of taxes sought to be assessed or collected pursuant to this chapter. ~~and payment~~ Prior payment of all tax, interest and penalties ~~shall be~~is required as a condition precedent to seeking judicial review of any tax liability under this ~~subchapter~~section.

§ 35.080 RECORDS.

It ~~shall be~~is the duty of every operator liable for the collection and payment to the city of any tax imposed by the provisions of this ~~subchapter~~section to keep and preserve, for a period of three years, all records ~~as~~ that may be necessary to determine the amount of such tax as ~~he~~ the operator ~~may have been~~was liable ~~for the collection of~~to collect for any payment to the ~~c~~City, which records the Director of Finance ~~shall~~ will have the right to inspect at all reasonable times and upon reasonable request.

§ 35.081 REFUNDS.

~~A.~~ ~~Whenever~~ Any claim that the amount of any tax, interest, or penalty has been overpaid, or paid more than once, or erroneously or illegally collected or received by the ~~c~~City pursuant to the provisions of this ~~subchapter~~section must be made ~~according to~~in compliance with Cal. Government Code, Chapters 1 and 2 of Division 3.6 commencing with §§Sections 900 and following, and in compliance with Eureka Municipal Code § 39.10 and following., ~~such amount may be refunded as provided in divisions (B) and (C) of this section provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Director of Finance within three years after the date of payment. This claim shall be on forms furnished by the Director of Finance.~~

~~B. Any operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once, or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Finance that the person from whom the tax has been collected was not a transient; provided, however, 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.~~

~~C. A transient may obtain a refund of taxes overpaid, paid more than once, or erroneously or illegally collected or received by the city by filing a claim in the manner provided in division (A) of this section but only when the tax was paid by the transient directly to the Director of Finance or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Director of Finance~~

~~that the transient has been unable to obtain a refund from the operator who collected the tax.~~

~~D. No refund shall be paid pursuant to the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto.~~

§ 35.082 ACTIONS TO COLLECT.

A. *Actions to collect.* Any tax required to be paid by any transient under the provisions of this chapter ~~shall~~ must be deemed a debt owed by the transient to the ~~c~~City. Any such tax collected by an operator ~~which~~that has not been paid to the ~~c~~City ~~shall~~ must be deemed a debt owed by the operator to the ~~c~~City. Any ~~person~~ operator owing money to the ~~c~~City under the provisions of this chapter ~~shall~~ will be liable to an action brought in the name of the City of Eureka for the recovery of such amount. Any judgment obtained in favor of the City may be enforced by any and all means provided by law.

B. *Recording tax lien*. If any amount required to be paid to the ~~c~~City under this chapter is not paid when due, the Finance Director may record in the Office of the Humboldt County Recorder a certificate ~~which~~that specifies the amount of tax, penalties and interest due, the name and address of the operator owing the tax and liable therefor as it appears on the tax assessment roll, and the fact that the Finance Director has complied with all provisions of this chapter in the determination of the tax, interest and penalties required to be paid. From the date of recording in the Office of the Humboldt County Recorder, the amount to be paid together with interest and penalties ~~shall~~ will constitute a lien upon the real property in the county owned by the operator or acquired by the operator afterwards and before the lien expires. The lien shall have the force, effect and priority of a judgment lien and ~~shall~~ will continue for ten years from the time of recordation of the lien unless renewed, ~~sooner~~ released, or otherwise discharged.

~~C. *Assessment and lien*. Whenever delinquent taxes and penalties are not paid to the city after proper notice, the total uncollected amount including tax, penalties and administrative fees may become assessments, and the City Clerk may compile a list of such assessments together with parcel number designations and addresses upon which the assessments are being fixed. After notice and hearing, and upon confirmation of the imposition of the liens by resolution of the City Council, the City Clerk shall file a certified copy of the approved resolution with the Humboldt County Tax Collector, directing that all unpaid transient occupancy taxes, penalties and administrative fees be entered as lien charges against said property as it appears on the current assessment roll. Liens shall be collected at the same time and in the same manner, subject to the same penalties and interest upon delinquencies, as the general real property taxes are~~

~~collected for the city. The City Clerk shall present for recording appropriate notices of the imposition of these liens with the Humboldt County Recorder.~~

~~D.~~C. *No lien preference*. Nothing in this chapter ~~shall~~ gives the ~~city~~City a preference over any recorded lien which attached prior to the date when the amounts required to be paid became a recorded lien.

~~E.~~D. *Remedies not exclusive*. The remedies and penalties provided for in this chapter ~~shall be~~are cumulative and not exclusive, and ~~shall~~ do not supersede or limit any and all other remedies that may be available.

~~**§ 35.083 PAYMENT OF TAXES PRIOR TO REFUND OR JUDICIAL RELIEF.**~~

~~No legal or equitable process shall be issued in any proceeding in any court against the city or any officer to prevent or enjoin the collection of any tax sought to be collected pursuant to this chapter, and payment of all tax, interest and penalties shall be required as a condition precedent to seeking judicial review of any tax liability.~~

§ 35.~~084~~ 083 VIOLATIONS OF PROVISIONS

A. Failure or refusal to ~~register~~obtain a business license as required, or failure or refusal to collect any tax ~~sought~~required to be collected pursuant to this chapter, or failure or refusal to make any report or return required by this chapter, or failure or refusal to furnish a supplemental report or return or other data required by the Director of Finance, or failure or refusal to remit any tax collected, or portion thereof, or rendering a false or fraudulent return or claim is hereby declared to be a public nuisance maintained or committed by the owner of the real property upon which the transient accommodation is located.

B. Any operator or other person who fails or refuses to ~~register~~obtain a business license as required, or fails or refuses to collect any tax sought to be collected pursuant to this chapter, or fails or refuses to make any report or return required by this chapter, or fails or refuses to furnish a supplemental report return or other data required by the Director of Finance, or fails or refuses to remit any tax collected, or renders a false or fraudulent return or claim is guilty of a misdemeanor.

C. Any person required to make, render, sign, or verify any report or claim and who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due ~~required by~~under the provisions of this ~~subchapter~~section is guilty of a misdemeanor.

D. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney, including, but not limited to, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, civil suits for damages, and suits for injunctive relief.

~~Any operator or other person who fails or refuses to register as required, 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 Director of Finance, or who renders a false or fraudulent return or claim shall be guilty of a misdemeanor. Any person required to make, render, sign, or verify any report or claim and who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by the provisions of this subchapter to be made shall be guilty of a misdemeanor.~~

BILL**SECTION 2**. The City Clerk will certify to the adoption of this Ordinance and will cause the same or a summary thereof to be published as required by law.

BILL SECTION 3. This Ordinance takes effect and will be in full force and effect thirty (30) days after the date of its final passage and adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of April, 2026, by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

_____
Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ___ day of _____, 2026, and hereby approved.

_____
Kim Bergel, Mayor

Approved as to Administration:

_____
Miles Slattery, City Manager

Approved as to form:

_____
Robert N. Black, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the____ day of _____, 2026.

_____
Pamela J. Powell, City Clerk