

1 Before the Board of Supervisors
2 of the County of Fresno
3 State of California
4 Ordinance Number _____

5 **An Ordinance Establishing the Fresno County Transient Occupancy Tax**

6 **Section 1. Findings.** The Board of Supervisors of the County of Fresno hereby finds and
7 declares as follows:

- 8 A. The Legislature has authorized counties to levy a transient occupancy tax in
9 unincorporated areas.
10 B. The County is one of only three counties in California that has not yet levied a transient
11 occupancy tax in its unincorporated area.
12 C. There is significant business of renting lodgings, such as hotels and short-term rentals,
13 to tourists, transients, and other guests in the unincorporated area of the County.
14 D. The Board finds it necessary and appropriate to levy a transient occupancy tax.

15 **Now, therefore,** the Board of Supervisors of the County of Fresno ordains as follows:

16 **Section 2.** The Ordinance Code of the County of Fresno is hereby amended by adding a
17 new Chapter 4.14 to read as follows:

18
19 **Chapter 4.14 – Transient Occupancy Tax**

20 **4.14.010 – Title.**

21 This chapter shall be known and may be cited as the Fresno County Transient Occupancy
22 Tax.

23 **4.14.020 – Authority.**

24 This chapter is adopted under Part 1.7 (beginning with section 7280) of Division 2 of the
25 Revenue and Taxation Code. If there is any conflict between this chapter and state law, state
26 law prevails.
27
28

1 **4.14.030 – Operative Date.**

2 This chapter is operative as of the first day of the first calendar quarter beginning after the
3 date of the election at which this chapter is approved by the voters of the County.

4 **4.14.040 – Definitions.**

5 For purposes of this chapter:

6 A. “Day” means a calendar day unless otherwise specified.

7 B. “Individual” means a natural person.

8 C. “Lodging” means any space or structure or any portion of any structure that is occupied
9 or intended or designed for occupancy by transients for lodging or sleeping purposes and
10 includes any hotel, inn, tourist home or house, short-term rental, motel, studio hotel, bachelor
11 hotel, lodging house, rooming house, apartment house, dormitory, public or private club,
12 camping site or space at a campground or recreational vehicle park, mobilehome as provided in
13 Revenue and Taxation Code section 7281, or other similar space or structure or portion of such
14 structure.

15 1. “Lodging” does not include any hospital, sanitarium, medical clinic,
16 convalescent home, rest home, home for aged people, foster home, or other similar
17 facility operated for the care or treatment of human beings; any asylum, jail, prison,
18 orphanage, or other facility in which human beings are detained and housed under legal
19 restraint; any housing owned or controlled by any educational institution and used
20 exclusively to house students, faculty, or other employees, and any fraternity or sorority
21 house or similar facility occupied exclusively by students and employees of that
22 educational institution, and officially recognized or approved by it; any housing operated
23 or used exclusively for religious, charitable, or educational purposes by any organization
24 having qualifications for exemption from property tax laws under the laws of this state;
25 any housing owned by a governmental agency and used to house its employees or for
26 governmental purposes; any camp defined in the Labor Code or other housing furnished
27 by an employer exclusively for employees; any camp defined in the Insurance Code,
28

1 whether for profit or not, offering recreation activities and operated exclusively for minors;
2 or any housing furnished by an employer exclusively for employees.

3 2. "Lodging" does not include a right of an owner of a timeshare estate or a
4 membership camping contract excluded from taxation under Revenue and Taxation Code
5 section 7280 or a campsite excluded from taxation under Revenue and Taxation Code
6 section 7282.

7 3. "Lodging" does not include a private home, family vacation cabin, or like
8 structure whose owner is not engaged in the business of renting such facilities, either
9 directly or through a short-term rental facilitator, but does so only occasionally, incidentally
10 to their own use, and not for profit.

11 D. "Occupancy" means the use of, or the right to use, any lodging for lodging or sleeping
12 purposes.

13 E. "Operative date" means the date referenced in section 4.14.030.

14 F. "Operator" means the person who is the proprietor of the lodging, whether in the
15 capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity.
16 Where the operator performs their functions through a managing agent other than an employee,
17 including through a short-term rental facilitator, the managing agent is also deemed an operator
18 for purposes of this chapter and has the same duties and liabilities as the principal, but
19 compliance with a provision of this chapter by either the principal or the managing agent is
20 deemed compliance by both.

21 G. "Rent" means the consideration charged, whether or not received, for occupancy of a
22 lodging, valued in money, whether to be received in money, goods, labor, or otherwise, including
23 all receipts, cash, credits, property, and services of any kind or nature, without any deduction.

24 H. "Short-term rental" has the meaning given in Government Code section 50991,
25 subdivision (f).

26 I. "Short-term rental facilitator" has the meaning given in Government Code section
27 50991, subdivision (g).

28

1 J. "Tax" means the tax imposed by section 4.14.050 and includes all penalties and
2 interest imposed under this chapter.

3 K. "Tax collector" means the tax collector of the County.

4 L. "Transient" means any individual having occupancy of a lodging, regardless of the
5 form of agreement, license, permit, or entitlement providing for occupancy, for a period of 30 or
6 fewer consecutive days, counting portions of days as full days. Any individual having occupancy
7 in a lodging is deemed a transient until that period has expired unless there is a written
8 agreement between the operator and the individual providing for a longer period of occupancy
9 by that individual. In determining whether an individual is a transient, uninterrupted periods of
10 time extending both before and after the operative date may be considered.

11 **4.14.050 – Tax.**

12 For the privilege of occupancy in any lodging, each transient is subject to and shall pay a
13 tax in the amount of 12 percent of the rent charged by the operator. That tax is a debt owed by
14 the transient to the County, which is satisfied only by payment in full to the operator or to the
15 County. The transient shall pay the tax to the operator at the time the rent is paid. If the rent is
16 paid in installments, a proportionate share of the tax shall be paid with each installment. The
17 unpaid tax is due upon the termination of the occupancy. If the tax due is not paid to the operator,
18 the tax collector may require that the tax be paid directly to the tax collector.

19 **4.14.060 – Exemptions.**

20 A. Subject to paragraph B, the following individuals are exempt from the tax:

- 21 1. An employee or officer of a government outside the United States.
- 22 2. An employee or officer of the United States government.
- 23 3. An employee or officer of the State of California or of the government of a political
24 subdivision of the State of California.

25 B. No exemption shall be granted under this section unless a claim of exemption in the
26 form prescribed by the tax collector is executed by the transient under penalty of perjury and
27 filed with the operator at the time rent is collected.

1 **4.14.070 – Operator Collection Duties.**

2 Each operator shall collect the tax to the same extent and at the same time the rent for
3 occupancy is collected from each transient. The amount of tax shall be separately stated from
4 the amount of rent charged and each transient shall receive a receipt from the operator for
5 payment of the tax. No operator shall advertise or state in any matter, whether directly or
6 indirectly, that the tax or any portion of the tax will be borne by the operator, or that it will not be
7 charged to the transient, or that any amount will be refunded, except as provided in this chapter.
8 All tax collected by an operator pursuant to this chapter is deemed County funds held in trust by
9 the operator to the account of the County until paid to the tax collector.

10 **4.14.080 – Registration.**

11 A. Within 30 days after the operative date, or before establishing a transient occupancy
12 business, whichever is later, each operator shall register with the tax collector, on a form
13 prescribed by the tax collector, each premises by street address where the operator has any
14 lodging.

15 B. After receiving a properly completed registration form, the tax collector shall issue,
16 without charge, a certificate of authority for the operator to collect the tax from transients at each
17 premises where the operator has any lodging. The certificate shall contain the following
18 information:

- 19 1. The name of the operator;
20 2. The address of the lodging;
21 3. The date the certificate was issued;
22 4. Any other relevant information required by the tax collector to assist in correct
23 reporting and collection of the tax; and

24 5. The following statement: “This Transient Occupancy Registration Certificate
25 signifies that the person named has satisfied the requirements for registration with the
26 County of Fresno for the purpose of collecting from transients the Fresno County
27 Transient Occupancy Tax (Fresno County Ordinance Code, Chapter 4.14) and remitting
28 the tax to the County of Fresno’s tax collector. This certificate does not authorize any

1 person to conduct any unlawful business or to conduct any lawful business in any unlawful
2 manner. This certificate is not a business permit, a land use permit, a license to operate
3 a transient occupancy business on this premises, or authorization to operate a transient
4 occupancy business without full compliance with all applicable laws, statutes, ordinances,
5 and regulations.”

6 C. The operator shall post the certificate conspicuously and continuously at each
7 premises where the operator has any lodging.

8 D. Failure to comply with this section does not relieve any person from the obligation to
9 collect or pay the tax.

10 **4.14.090 – Return and Remittance.**

11 Each operator shall, on or before the close of business on the last County business day
12 of the month following the close of each calendar quarter, or at the close of any shorter reporting
13 period that may be established by the tax collector, or immediately upon cessation of transient
14 occupancy business, make a return to the tax collector, on the form prescribed by the tax
15 collector, of the total rents charged and received, the amount of tax collected, and any other
16 information required by the tax collector, for the calendar quarter or shorter reporting period if
17 established by the tax collector. At the time of filing that return, the operator shall remit to the tax
18 collector the full amount of tax collected during the reporting period.

19 **4.14.100 – Operator Records.**

20 Each operator liable for collection and payment of tax to the County shall keep and
21 preserve, for a period of three years, all records necessary to determine the amount of the tax
22 that the operator may have been liable to collect and pay to the County. The tax collector has
23 the right to inspect those records at all reasonable times.

24 **4.14.110 – Penalties and Interest.**

25 A. Any tax that is unpaid within the time required by section 4.18.090 is delinquent and
26 a delinquent penalty in the amount of 10 percent of the tax attaches.

27 B. If any tax remains delinquent for 30 days, a second delinquent penalty, in the amount
28 of 10 percent of the tax and the first delinquent penalty, attaches.

1 C. If the tax collector determines that the nonpayment of any tax under this chapter is
2 due to fraud, a penalty of 25 percent of the tax attaches, in addition to any other penalties under
3 this section.

4 D. In addition to the penalties imposed, interest at the rate of one and one-half percent
5 per month, on the amount of tax, exclusive of penalties, accrues at the close of business on the
6 last County business day of each month beginning one month after the tax becomes delinquent.

7 E. Every penalty and all interest imposed under this chapter is deemed part of the tax
8 due.

9 **4.14.120 – Medium of Payment.**

10 All payments under this chapter shall be in a medium permitted for payment of property
11 taxes to the County pursuant to Chapter 1 (beginning with section 2501) of Part 5 of Division 1
12 of the Revenue and Taxation Code.

13 **4.14.130 – Failure of Operator to Collect, Report, or Remit.**

14 A. If an operator fails to collect the tax, or fails to make, within the time provided in this
15 chapter, any report or return or any remittance of tax or any portion of tax, the tax collector shall
16 proceed in the manner the tax collector deems appropriate to obtain facts and information upon
17 which to base an estimate of the tax due. Upon procuring such facts and information, the tax
18 collector shall determine and assess the tax upon the operator with penalties and interest as
19 provided by this chapter.

20 B. In the absence of facts or information the tax collector deems most appropriate, the
21 tax collector shall estimate the tax by multiplying the number of days in each reporting period for
22 which the operator has failed to collect, report, or remit the tax, by the estimated number of
23 lodging units customarily available for rent by the operator and multiplying that number by the
24 estimated average rent for the subject lodging units or similar lodging units and multiplying that
25 amount by the tax rate. The tax collector shall then determine and assess the tax upon the
26 operator with penalties and interest as provided by this chapter.

27 C. The tax collector shall give written notice of any tax assessed under this section. The
28 notice shall be given by mail or by personal service to the operator at their last known address.

1 D. Within 10 days after the date of personal service or within 15 days after the date of
2 mailing of a notice under this section, the operator may apply in writing to the tax collector for an
3 initial hearing on the amount assessed. If the operator does not apply for an initial hearing within
4 the time prescribed, the tax assessed by the tax collector, including all penalties and interest, if
5 any, becomes final and conclusive and is immediately due and payable.

6 **4.14.140 – Deficiency Assessment.**

7 A. If the tax collector is not satisfied with a return filed by an operator or the amount of
8 the tax required to be paid pursuant to a return, the tax collector may assess a tax deficiency by
9 computing and determining the amount required to be paid based on facts contained in the return
10 or based on any information within the tax collector’s possession or that may come into the tax
11 collector’s possession. The tax collector may assess one or more tax deficiency for each
12 reporting period.

13 B. The tax collector shall give written notice of any tax deficiency assessed under this
14 section. The notice shall be given by mail or by personal service to the operator at their last
15 known address.

16 C. Within 10 days after the date of personal service or within 15 days after the date of
17 mailing of a notice under this section, the operator may apply to the tax collector, in the form
18 prescribed by the tax collector, for an initial hearing on the tax deficiency. If the operator does
19 not apply for an initial hearing within the time prescribed, the tax deficiency assessed by the tax
20 collector, including all penalties and interest, if any, becomes final and conclusive and is
21 immediately due and payable.

22 **4.14.150 – Initial Hearings and Appeals.**

23 A. If an operator timely applies for an initial hearing as provided in this chapter, the tax
24 collector shall give written notice to the operator of the date, time, and place of an initial hearing
25 no more than 60 days after the date the application is received by the tax collector. The date of
26 the initial hearing shall be at least 10 days after the date of personal service or at least 15 days
27 after the date of mailing of written notice under this section. At the initial hearing, the operator
28 may appear and offer evidence why the tax, or any portion of the tax, should not be assessed.

1 B. Within 30 days after the initial hearing, the tax collector shall give written notice by
2 certified mail or personal service of the determination and amount of tax. The tax as determined
3 is payable immediately and delinquent and subject to penalties and interest under section
4 4.14.110 if not paid within 10 days after the date of personal service or within 15 days after the
5 date of certified mailing of a notice under this paragraph, unless the operator files a notice of
6 appeal with the county administrative officer.

7 C. The appeal shall be heard by a hearing officer pursuant to Chapter 2.81.

8 D. Within 30 days after the appeal hearing, the hearing officer shall give written notice to
9 both the appellant operator and the tax collector by certified mail or personal service of the
10 decision and amount of tax. The findings of the hearing officer shall be final and conclusive. If
11 any amount of tax is due to be paid by the operator because of the decision, it is payable
12 immediately and delinquent and subject to penalties and interest under section 4.14.110 if not
13 paid within 10 days after the date of personal service or within 15 days after the date of certified
14 mailing of a notice of decision under this paragraph. If the operator has paid and is entitled to
15 any refund of tax because of the decision, the refund shall be paid with the written notice of the
16 decision without a claim under section 4.14.160.

17 E. Notwithstanding paragraph C of this section, if staff to the Office of the County Hearing
18 Officer are unable to assign a hearing officer, then the appeal shall be heard by the Board at a
19 regular meeting. The county administrative officer shall provide at least 20 days' advance written
20 notice to the appellant operator of the date, time, and place of the meeting where the appeal will
21 be heard. If the Board hears the appeal, references to the hearing officer in paragraph D of this
22 section include the Board.

23 F. The County may challenge the decision of a hearing officer by petition for writ of
24 mandate filed in the Superior Court within 60 days after the tax collector has received written
25 notice of the decision.
26
27
28

1 **4.14.160 – Refund Claims.**

2 A. Any tax paid before or after delinquency shall be refunded if it was paid more than
3 once or if it was erroneously or illegally collected or received by the County and if the amount to
4 be refunded exceeds ten dollars.

5 B. Except as provided in section 4.14.150, no tax shall be refunded except on a claim
6 that:

- 7 1. Is in writing, in the form prescribed by the tax collector;
- 8 2. Specifies the grounds on which the claim is founded;
- 9 3. Includes written records establishing the validity of the claim;
- 10 4. Is verified under penalty of perjury by the person who paid the tax, their guardian
11 or conservator, the executor of their will, or the administrator of their estate; and
- 12 5. Is filed with the tax collector within six months after payment of the tax.

13 C. An operator may claim a refund or take as credit against taxes to be collected and
14 remitted the amount paid more than once or erroneously or illegally collected or received, except
15 that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has
16 either been refunded by the operator to the person from which it was collected or credited by the
17 operator to rent subsequently payable by that person to the operator.

18 D. A transient may claim a refund only when they paid the tax directly to the tax collector,
19 or when the transient, having paid the tax to the operator, establishes to the satisfaction of the
20 tax collector that the transient has been unable to obtain a refund from the operator that collected
21 the tax.

22 **4.14.170 – Exhaustion.**

23 A. Any person wishing to challenge the legality of all or any part of a tax imposed under
24 this chapter must, before seeking judicial relief:

- 25 1. Pay the amount of the disputed tax;
- 26 2. Present a claim for refund under section 4.14.160; and
- 27 3. Allow action to be taken on that claim under section 4.14.160.

1 B. The person who paid the tax, their guardian or conservator, the executor of their will,
2 or the administrator of their estate may bring an action in Superior Court, but not in the small
3 claims division, against the County of Fresno to recover any tax that the County has refused to
4 refund on a claim for refund pursuant to section 4.14.160. No other person may bring such an
5 action; but if another person should do so, judgment shall not be rendered for the plaintiff.

6 C. Any suit for tax refund shall be commenced within six months after the date of action
7 on the refund claim under section 4.14.160.

8 D. Any person claiming to be aggrieved under this chapter and seeking judicial relief may
9 not file any type of judicial action other than a refund action. No recovery shall be allowed in any
10 refund action upon any ground not specified in the refund claim.

11 E. Notwithstanding any other provision of this chapter, no claim or defense that, for any
12 reason, a tax is not due or cannot be applied under this chapter may be raised in any judicial
13 proceeding except in an action for refund of the disputed tax.

14 **4.14.180 – Actions to Collect.**

15 Any person owing money to the County under this chapter is liable to an action brought
16 in the name of the County, in any court of competent jurisdiction within the County, or within the
17 county of residence of such person, at the option of the tax collector, for the recovery of that
18 amount.

19 **4.14.190 – Recording Certificate of Lien.**

20 A. The tax collector may record a certificate of lien in the office of the Fresno County
21 Recorder within three years after the amount required to be paid to the County under this chapter
22 is delinquent. The certificate shall specify:

- 23 1. The amount of tax, penalties, and interest due;
 - 24 2. The name and address, as it appears on the records of the tax collector, of the
25 operator or operators liable for the tax;
 - 26 3. The fact that the tax collector has complied with all provisions of this chapter; and
 - 27 4. The determination of the amount required to be paid.
- 28

1 B. From the time of recording a certificate of lien under this section, the amount required
2 to be paid constitutes a lien upon all real and personal property in the County owned by the
3 operator or afterwards acquired by the operator before the expiration of the lien. The lien has
4 the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of
5 recording unless sooner released or otherwise discharged. The lien may be extended for two
6 additional 10-year periods by re-recording the original certificate of lien. The certificate of lien
7 may be recorded in any other county in which the operator may have property.

8 **4.14.200 – Change in Ownership.**

9 A. Before a change of ownership in a lodging, the transferor or operator of the lodging
10 shall give written notice to the tax collector of the sale no later than 15 days before the close of
11 escrow or the transfer of title. The transferor shall request and complete a final transient
12 occupancy report form and pay upon close of escrow or upon delivery of title or transfer,
13 whichever occurs first, all tax due under this chapter.

14 B. Before the change of ownership of a lodging, the transferee or prospective operator
15 of the lodging shall give written notice to the tax collector of the sale no later than 15 days before
16 the close of escrow or the transfer of title. The transferee shall retain from the purchase price
17 the amount for which the transferor is liable until the transferor produces a certificate from the
18 tax collector stating that the taxes have been paid. If the tax is not paid as provided in this chapter,
19 the tax collector shall request the retained amount from the transferee and the transferee shall
20 pay the request within 10 days.

21 C. If proper notice is given by the parties to the transfer of ownership of a lodging:

22 1. The tax collector may perform an audit to determine any tax liability of the
23 transferor before the change in ownership.

24 2. The county will release the transferee from any tax liability of the transferor before
25 the change of ownership.

26 3. The County will release the transferee from any tax liability arising before the
27 change of ownership, even if no audit was conducted.

28

1 D. This section is deemed constructive notice to all new owners of lodgings that they
2 shall assume liability for all unpaid tax when the tax collector is not properly notified as required
3 by this section.

4 **4.14.210 – Optional Electronic Communications.**

5 County officials may use electronic means to communicate with any person regarding
6 their obligations under this chapter. Such communications are not a substitute for notices
7 permitted or required by this chapter, are deemed to be a courtesy only, and have no effect on
8 the time in which any act under this chapter may or must be done.

9 **4.14.220 – Civil Remedies.**

10 In addition to any and all other remedies provided in this chapter, the tax collector may
11 use any and all civil remedies available to the tax collector at law or in equity not otherwise
12 prohibited by law or inconsistent with provisions of this chapter.

13 **4.14.230 – Violations.**

14 In addition to any civil remedy for the collection of taxes, any person violating any of the
15 provisions of this chapter is guilty of a misdemeanor and is punishable as otherwise provided in
16 this code.

17 **4.14.240 – Enjoining Collection Forbidden.**

18 No injunction or writ of mandate or other legal or equitable process shall issue in any suit,
19 action or proceeding in any court against the County, or against any officer of the County, to
20 prevent or enjoin the collection of any tax under this chapter.

21 **4.14.250 – Amendment of Ordinance.**

22 Except for amendments that would increase the tax rate, impose the tax on occupancy
23 not previously subject to the tax, or be inconsistent with the purposes of this ordinance, the Board
24 may amend this chapter without submitting the amendment to the voters for approval.

25 **4.14.260 – Severability.**

26 If any portion of this chapter is held to be invalid by any court of competent jurisdiction,
27 such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.
28

1 The Board hereby declares it would have passed each remaining portion irrespective of the fact
2 that any one or more portions are declared invalid.

3
4 **Section 3.** Under Government Code section 25123, subdivision (c), as an ordinance
5 fixing the rate of a tax to be levied, this ordinance is effective immediately upon its final passage.

6
7 THE FOREGOING, was passed and adopted by the following vote of the Board of
8 Supervisors of the County of Fresno this ____ day of _____, 2026, to wit:

9 AYES:

10 NOES:

11 ABSENT:

12 ABSTAINED:

13 **COUNTY OF FRESNO**

14
15 Garry Bredefeld, Chairman of the Board of
Supervisors of the County of Fresno

16 **ATTEST:**
17 Bernice E. Seidel
18 Clerk of the Board of Supervisors
County of Fresno, State of California

19 By: _____
20 Deputy

21 FILE # _____

22 AGENDA # _____

23 ORDINANCE # _____