



MEMORANDUM
COUNTY EXECUTIVE OFFICE
County of Placer

TO: Board of Supervisors DATE: May 5, 2020

FROM: Doug Jastrow, Revenue Services Manager

SUBJECT: Urgency Ordinance for Suspension of Penalties and Interest Due to Late Remittance of Transient Occupancy Taxes

ACTION REQUESTED

1. Introduce, waive oral reading and adopt an urgency ordinance suspending penalties and interest until July 31, 2020 for failures to remit transient occupancy taxes in response to the COVID-19 emergency.

BACKGROUND

Placer County Code Chapter 4, Article 4.16 requires the imposition of transient occupancy tax (“TOT”) on short-term occupants of lodging facilities in unincorporated Placer County. TOT helps fund initiatives that benefit the County including public safety, transportation, libraries, public parks, infrastructure improvements, and historical and environmental preservation projects.

Operators of lodging facilities subject to TOT are required to provide both a report and the actual amount of TOT that they receive on a quarterly basis, or at shorter intervals if required by the County Tax Administrator. The third quarter of fiscal year 19/20 and the first quarter of the calendar year ended on March 31, 2020. Pursuant to County Code Section 4.16.070, operators have until the last day of the following month to provide the report and the amounts owed to the County’s Tax Administrator, which is April 30, 2020. After April 30th, penalties and interest would be charged for any late payments.

The COVID-19 pandemic, along with associated State Governor’s executive orders and Placer County Health Officer’s orders, have limited commercial operation of vacation rental units, including hotels and motels, and have restricted operators’ abilities to administratively process and remit TOT to the County’s Tax Administrator. In addition, employees have been furloughed or laid off due to the reduction in usage of vacation rental units, further affecting the ability of operators to provide TOT payments to the County on a timely basis. Many operators manage multiple units so the processing and remitting of TOT is more involved.

In response to the COVID-19 emergency and its impact on the operators of lodging facilities, staff proposes the suspension of penalties and interest on an interim basis until July 31, 2020 for any previously unremitted TOT collected during the third quarter of fiscal year 19/20 (January 1, 2020 to March 31, 2020). Reports of the third quarter are still required by April 30, 2020, but the suspension of penalties and interest would allow for additional time to process and send the payments to the County’s tax administrator without incurring penalties and interest. Penalties and interest would not be suspended for TOT owed for other quarters, or for failures to remit TOT due

to fraudulent actions (4.16.090(c)), and the suspension would only apply to those operators who have not previously paid TOT for the third quarter of the 19/20 fiscal year.

Government Code section 25123 allows the County to enact an urgency ordinance for the immediate preservation of the public peace, health, or safety, and to make the ordinance effective immediately. The suspension of penalties and interest during the COVID-19 emergency qualifies as a basis for this urgency ordinance. In this instance, the proposed ordinance would be effective immediately, and would expire on July 31, 2020.

ENVIRONMENTAL CLEARANCE

The proposed action is not a project under the California Environmental Quality Act since it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment pursuant to CEQA Guidelines 15061(b)(3) and 15378(b).

FISCAL IMPACT

Anticipated TOT revenues do not include penalties and interest received due to delinquent payments, so no budget changes would be needed due to the suspension. However, there may be a minor shift in timing as some TOT revenue originally anticipated to be received in fiscal year 19/20 may be received in fiscal year 20/21 instead.

ATTACHMENTS

Attachment A – Urgency Ordinance

Before the Board of Supervisors County of Placer, State of California

In the matter of: An Urgency Ordinance Suspending
Interest and Penalties on an Interim Basis for
Failure to Remit Transient Occupancy Taxes in
Response to the COVID-19 Emergency

Ordinance No.: _____

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer
at a regular meeting held May 5, 2020, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, on March 4, 2020, California Governor Gavin Newsom declared a State of
Emergency to formalize emergency actions and help prepare for the broader spread of the
COVID-19 disease; and

WHEREAS, on March 9, 2020, the County Board of Supervisors ratified the County Health
Officer's March 3, 2020 declaration of a local health emergency and ratified the Director of
Emergency Services' March 3, 2020 proclamation of a local emergency because of the COVID-
19 disease; and

WHEREAS, on March 19, 2020, Governor Newsom issued Executive Order N-33-20 ordering
all individuals in California to stay in their place of residence except as needed to maintain
continuity of operations of federal critical infrastructure sectors; and

WHEREAS, on March 19, 2020, the Placer County Health Officer issued a directive for residents to remain at home except to engage in essential activities in response to the COVID-19 pandemic and further stated that “all travel ... except Essential Travel and Essential Activities as defined below, is prohibited”; and

WHEREAS, on March 24, 2020, The Placer County Health Officer issued guidance on Executive Order N-33-20 with respect to short-term rental operations, and specifically stated “short-term rentals that are used for commercial purposes are not considered part of the critical infrastructure under the governor’s order”; and

WHEREAS, on April 10, 2020, and as amended on April 16, 2020, the Placer County Health Officer issued an order mandating that short-term rental units were not permitted to operate for commercial purposes; and

WHEREAS, the Placer County Health Officer’s directive, guidance and order, in cooperation with the Governor’s Executive Orders, have emphasized that commercial operation of short-term rental units, including hotels and motels, should not occur during the COVID-19 pandemic with limited exceptions for COVID-19 mitigation and containment, and housing for essential workers; and

WHEREAS, the ceasing of short-term occupancy for commercial purposes in the County has resulted in detrimental impacts to operators and owners and their businesses by eliminating their sources of income and financially affecting the ultimate viability of their operations as well as impacting the incomes of hotel/motel workers who were furloughed or laid off; and

WHEREAS short-term occupancy within the County also serves as revenue generators for other County businesses by encouraging visitors to stay longer in the County and make additional purchases within the County, and the elimination of those businesses would have a widespread negative impact on the residents of the County as a whole; and

WHEREAS, Placer County Code Chapter 4, Article 4.16 requires the imposition of transient occupancy tax (“TOT”) on occupants of certain lodging facilities; the amount is to be collected by the operator and remitted to the County; and

WHEREAS, under Placer County Code, Chapter 4, Article 4.16, Section 4.16.070, operators and TOT certificate holders are required to make a return to the tax administrator “on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator” and at the time the return is filed, they must remit the full amount of the TOT to the tax administrator; and

WHEREAS, under Placer County Code, Chapter 4, Article 4.16, Section 4.16.090, any operators that fail to remit TOT within the required time period are subject to penalties and interest due to the failure; and

WHEREAS, operators and workers at short-term rental units have been restricted in their ability to administratively process and remit TOT due to restrictions on nonessential activities; and

WHEREAS, there is an immediate need to preserve the public peace, health and safety by temporarily waiving penalties and interest for delinquent TOT collected during the months of January to March (Quarter 3) of this year, other than those penalties for fraudulent activities, in response to the COVID-19 emergency in order to reduce the impact on businesses and residents within the County; and

WHEREAS, it is anticipated that by the end of Quarter 4 and the TOT remittance deadline date of July 31, 2020, transient occupancy rates will begin increasing across the County, thereby alleviating the impact of the COVID-19 emergency.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA
ORDAINS AS FOLLOWS:**

Section 1: Placer County Code Chapter 4, Article 4.16, Section 4.16.090, subsections (A), (B) and (D) are hereby suspended on an interim basis for any unremitted transient occupancy taxes (TOT) collected during the period of January 1, 2020 to March 31, 2020 (Quarter 3).

Section 2: All other obligations contained in Placer County Code Chapter 4, Article 4.16 remain in full force and effect, including the requirement in Placer County Code Chapter 4, Article 4.16, Section 4.16.070 that returns must be made to the tax administrator “on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator.” This date for Quarter 3 was April 30, 2020.

Section 3: Remittance for Quarter 3 must be transmitted on or before July 31, 2020.

Section 4: The Board hereby declares, based on the findings set forth above, that there is an immediate need to preserve the public peace, health and safety constituting the urgency for adoption of this ordinance pursuant to Government Code section 25123(d). Accordingly, this ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its adoption until July 31, 2020, unless otherwise repealed or extended.

Section 5: The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code section 25124.

