BILL NO. 94-01

TONOPAH TOWN ORDINANCE NO. 94-01

SUMMARY: An ordinance amending Tonopah Town Ordinances 97 and 100, codified at Nye County Code Chapters 22.04 and 22.08; providing that Tonopah Town Ordinances 97 and 100 shall be consolidated and hereafter referred to as the "Tonopah Business License Tax and Regulations"; specifying the authority of the Town Board to impose a business license tax and regulate businesses located within the Unincorporated Town of Tonopah; providing that all persons or entities doing business in Tonopah must secure business licenses, renewable quarterly; providing for an increase from six percent (6%) to eight percent (8%) of gross revenue in the business license tax on the rental of transient lodging in Tonopah; and other matters properly pertaining thereto.

TITLE: AN ORDINANCE AMENDING TONOPAH TOWN ORDINANCES NO. 100 AND NO. 97, CODIFIED AT NYE COUNTY CODE CHAPTERS 22.04 AND 22.08, RESPECTIVELY; PROVIDING FOR THE CONSOLIDATION OF TONOPAH TOWN ORDINANCES NO. 100 AND NO. 97; PROVIDING DEFINITIONS FOR THE CONSTRUCTION OF THIS ORDINANCE; SETTING FORTH THE AUTHORITY OF THE TOWN BOARD TO FIX AND COLLECT A BUSINESS LICENSE TAX; PROVIDING THAT THE NYE COUNTY SHERIFF HAS AUTHORITY TO ENFORCE THE PROVISIONS OF THIS ORDINANCE; PROVIDING THAT ALL PERSONS DOING BUSINESS WITHIN TONOPAH MUST ABIDE BY ALL LOCAL, COUNTY, STATE AND FEDERAL LAWS; MAKING IT UNLAWFUL TO OFFER, ENGAGE IN OR CARRY ON ANY BUSINESS, TRADE, PROFESSION OR CALLING WITHIN TONOPAH WITHOUT FIRST SECURING A BUSINESS LICENSE; PROVIDING FOR GENERAL EXEMPTIONS TO THE APPLICABILITY OF THIS ORDINANCE; PROVIDING FOR SPECIFIC EXEMPTIONS TO THE APPLICABILITY

OF THIS ORDINANCE; PROVIDING THAT BOTH PRINCIPALS AND AGENTS MUST BE LICENSED; PROVIDING THAT BUSINESS LICENSE APPLICATIONS SHALL BE SUBMITTED TO THE TOWN MANAGER; PROVIDING FOR THE CONTENT OF THE BUSINESS LICENSE APPLICATIONS; PROVIDING FOR THE LICENSING OF MULTIPLE BUSINESSES AT THE SAME LOCATION AND AT SEPARATE LOCATIONS; PROVIDING THAT NONRESIDENT APPLICANTS MUST PRESENT WRITTEN PERMISSION FROM THE OWNER OF THE TEMPORARY LOCATION; PROVIDING THAT THE ROUTE AND/OR CUSTOMERS OF NONRESIDENT WHOLESALERS OR RETAILERS SHALL BE CONSIDERED ONE LOCATION; PROVIDING FOR THE ISSUANCE OF BUSINESS LICENSES; PROVIDING FOR THE CONTENTS OF THE BUSINESS LICENSES; PROVIDING FOR THE POSTING OF BUSINESS LICENSES; PROVIDING FOR THE RENEWAL OF BUSINESS LICENSES; FIXING THE BUSINESS LICENSE TAX AT $.0125 PER POINT PER CALENDAR QUARTER; PROVIDING FOR THE CLASSIFICATION OF BUSINESSES, PROFESSIONS, TRADES AND CALLINGS; DEFINING CLASS "A" BUSINESSES; DEFINING CLASS "B" BUSINESSES; DEFINING CLASS "C" BUSINESSES; DEFINING CLASS "D" BUSINESSES; ESTABLISHING POINT VALUES DETERMINED BY THE BUSINESS CLASSIFICATION; ESTABLISHING A POINT VALUE OF 300 POINTS FOR LOCATION OF A BUSINESS IN TONOPAH; ESTABLISHING POINT VALUES DETERMINED BY THE AVERAGE NUMBER OF PERSONS ENGAGED IN THE BUSINESS; ESTABLISHING POINT VALUES DETERMINED BY THE HOURS OF OPERATION OF THE BUSINESS; ESTABLISHING POINT VALUES DETERMINED BY THE NUMBER OF RENTAL UNITS AVAILABLE; PROVIDING FOR THE QUARTERLY PAYMENT OF BUSINESS LICENSE TAXES; PROVIDING FOR A PRE-PAYMENT INCENTIVE; PROVIDING FOR NON-PAYMENT PENALTIES; PROVIDING FOR THE GENERAL DUTIES OF THE TOWN MANAGER; PROVIDING FOR THE ACCOUNTING DUTIES OF THE TOWN MANAGER; PROVIDING FOR THE IMPOSITION OF A TRANSIENT LODGING BUSINESS LICENSE TAX OF 8% OF THE GROSS INCOME DERIVED FROM ROOM RENTALS(AN INCREASE FROM 6%); PROVIDING FOR EXEMPTIONS FROM THE TRANSIENT LODGING BUSINESS LICENSE TAX; PROVIDING FOR THE DISPLAY OF A NOTICE REGARDING THE TRANSIENT LODGING BUSINESS LICENSE TAX; PROVIDING FOR THE COLLECTION OF THE TRANSIENT LODGING BUSINESS LICENSE TAX FROM TENANTS; PROVIDING FOR THE PAYMENT OF THE TRANSIENT LODGING BUSINESS LICENSE TAX TO THE NYE COUNTY TREASURER ON A MONTHLY BASIS; PROVIDING FOR PENALTIES AND INTEREST

FOR THE UNTIMELY PAYMENT OF THE TRANSIENT LODGING BUSINESS LICENSE TAX; PROVIDING THAT BUSINESSES SUBJECT TO THE TRANSIENT LODGING BUSINESS LICENSE TAX SHALL COOPERATE WITH THE TONOPAH TOWN MANAGER; PROVIDING THAT THE TOWN BOARD MAY SUSPEND OR REVOKE A BUSINESS LICENSE; PROVIDING FOR A SHOW CAUSE HEARING PRIOR TO SUSPENSION OR REVOCATION OF A BUSINESS LICENSE; PROVIDING FOR APPEAL OF THE SUSPENSION OR REVOCATION OF A BUSINESS LICENSE; PROVIDING THAT PERSONS WHO VIOLATE THIS ORDINANCE COMMIT A MISDEMEANOR; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR THE SEVERABILITY, CONSTITUTIONALITY, AND EFFECTIVE DATE HEREOF; AND OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, on March 7, 1984, the Nye County Board of Commissioners ("Board"), acting as the Board of Trustees for the Unincorporated Town of Tonopah, adopted Bill No. 84-1, amending Tonopah Town Ordinance No. 100, known as the "Tonopah Town Business License Ordinance"; and

WHEREAS, Tonopah Town Ordinance No. 100, as amended by the Board in 1984, provided for the licensing, taxation, and regulation of all businesses, professions, trades, and callings within the boundaries of Tonopah; and

WHEREAS, on October 16, 1984, a lawsuit was filed in the Fifth Judicial District Court of the State of Nevada, in and for the County of Nye, challenging certain portions of the amended Tonopah Town Ordinance No. 100 as unconstitutional and discriminatory; and

WHEREAS, on August 28, 1987, the Court issued a Decision and Order, striking down as unconstitutional certain portions of the amended Tonopah Town Ordinance No. 100; and

WHEREAS, on January 4, 1983, the Board, acting as the Board of Trustees for Tonopah, enacted Bill 83-1, amending Tonopah Town Ordinance No. 97, known as the "Tonopah Room Tax Ordinance"; and

WHEREAS, in 1991, the Town Board of the Unincorporated Town of Tonopah ("Town Board") was established as the governing body for the Town; and

WHEREAS, pursuant to NRS 269.170, the Town Board is authorized to fix and collect a license tax on, and regulate all businesses, professions, and trades within the Town; and

WHEREAS, the Town Board recognizes that the room tax imposed by Tonopah Town Ordinance No. 97 properly should be denoted a business license tax authorized by NRS 269.170; and

WHEREAS, Tonopah Town Ordinances No. 100 and No. 97 are codified in the Nye County Code at Chapters 22.04 and 22.08, respectively; and

WHEREAS, the Town Board desires to consolidate, update, and clarify the Town's business license tax and regulations ordinances, so that they properly may be implemented; and

WHEREAS, the Town Board believes it to be in the best interests of the residents of Tonopah for the business license tax which is calculated as a percentage of the gross revenues derived from the rental of transient lodging to be raised from six percent (6%) to eight percent (8%);

NOW, THEREFORE, the Town Board of the Unincorporated Town of Tonopah, Nye County, State of Nevada, does ordain:

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ORDINANCE CONSOLIDATION AND AMENDMENT. A. Tonopah Town Ordinance No. 100, codified at Nye County Code Chapter 22.04, and Tonopah Town Ordinance No. 97, codified at Nye County Code Chapter 22.08, hereby are consolidated in one ordinance, to be known as the "Tonopah Business License Tax and Regulations".

B. The Tonopah Business License Tax and Regulations Ordinance (as consolidated) is amended to read as follows[1]:

ARTICLE I. GENERAL PROVISIONS

22.04.010 ***Definitions***. In construction of this Chapter, the following definitions shall apply, unless the context clearly requires otherwise:

A. "Agent" means a person, partnership or corporation which offers, engages in or carries on any business, trade or profession for another person, partnership or corporation.

B. "Basic business license tax" means the tax imposed by Article III herein.

C. "Board" means the Board of County Commissioners of Nye County.

D. "County" means Nye County, a political subdivision of the State of Nevada.

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[1] For purposes of clarity, the amended Ordinance is presented in its entirety, with numbering corresponding to its codification in Nye County Code Chapter 22.04.

E. "Employee" means any person actively engaged in the operation of a business, whether paid or unpaid.

F. "Entertainment" means any person, partnership or corporation providing a service or product whose basic function is recreational or entertainment in nature.

G. "Lessee" means any person renting rooms or accommodations from a licensee.

H. "Licensee" means any person, partnership, firm or corporation operating a business or engaging in a profession or trade within the Unincorporated Town of Tonopah.

I. "Location" means a permanent structure or structures or portion thereof, or a parcel of land or group of contiguous lots used as a place of business.

J. "Nonprofit organization" means any group recognized as nonprofit according to the Nevada Revised Statutes.

K. "Permanent structure" mans any structure which is subject to taxation, pursuant to NRS Chapter 361.

L. "Person" means any person, firm, partnership, association, corporation, individual, executor, administrator, trustee, receiver or other representative.

M. "Profession" means those activities, services or product conducted, performed or provided by any person, partnership or corporation which require a high degree of skill or training.

N. "Rental unit" means any structure or portion thereof, parcel of land or lot for which rent is collected on a monthly or

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annual or other basis, specifically excepting any units for which a transient lodging business license tax is paid.

O. "Rental business" means the operation of any hotel, motel, auto court, motor court, lodge, lodginghouse, apartment house, apartment house hotel, roominghouse, guesthouse, trailer court, trailer park, recreational vehicle court, recreational vehicle park, tourist camp, ranch resort, guest ranch, cabin or other accommodations having three or more rooms, three or more spaces, or a combination of three or more rooms and spaces.

P. "Resident" means any person, partnership or corporation which operates a business weekly during the quarter of licensing from a permanent structure within the Town of Tonopah.

Q. "Retailer" means any person, partnership or corporation who sells goods or merchandise intended to be consumed or used by the buyer.

R. "Service" means any person, partnership or corporation providing a service which is primarily labor.

S. "Town" means the Unincorporated Town of Tonopah.

T. "Town Board" means the governing body of the Unincorporated Town of Tonopah.

U. "Town Manager" means the duly authorized and appointed agent of the Town Board.

V. "Transient lodging business license tax" means the tax imposed by Article IV of this Chapter and by the authority of NRS 269.170.

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W. "Wholesaler" means any person, partnership or corporation who sells products or merchandise intended to be resold to or consumed by someone other than the buyer.

22.04.020 ***Authority of Town Board***. The Town Board may, pursuant to NRS 269.170, "[f]ix and collect a license tax on, and regulate, having due regard to the amount of business done by each person or firm so licensed," all business, professions and trades within the Town.

22.04.030 ***Authority to issue citations***. The Nye County Sheriff and Sheriff's deputies are authorized to prepare, sign and serve misdemeanor citations, pursuant to NRS Chapter 171, to enforce the provisions of this ordinance.

22.04.040 ***Applicability of other laws***. Every person, firm or corporation doing business within the Town of Tonopah shall abide by all local, County, state or federal laws and regulations which may apply to his/her/its business. When required, every such person, firm or corporation shall obtain any local, County, state or federal permit or license prior to applying for a Town business license.

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ARTICLE II. LICENSING PROCEDURES

22.04.050 ***License required***. A. It is unlawful for any person, partnership or corporation to offer, engage in, or carry on any business, trade, profession or calling within the limits of the Town without first applying for and procuring a business license; provided, however, that a licensee may secure such business license within ten (10) days of the commencement of such business, profession, trade or calling, or within ten (10) days after the effective date of this Ordinance.

B. A sign or advertisement kept, exhibited or published indicating that any person, partnership or corporation is engaged in a business, trade or profession, or for the performance of services where a charge is made or compensation accepted, shall be prima facie evidence that such person, partnership or corporation is engaged in a business, trade or profession.

C. Each day that any person, partnership or corporation carries on any business, profession, trade or calling without first having procured a business license as required by this Chapter shall constitute a separate violation of this Chapter.

22.04.060 ***Exemptions--generally***. A. All local, county, state and federal governmental officers, employees and entities shall be exempt from the provisions of this Chapter.

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B. Nonprofit organizations shall file an application for a business license, but shall be exempt from the license tax imposed by this Chapter.

22.04.070 ***Exemptions--sponsored businesses***. The Town Board, upon application by a nonprofit organization, may issue a tax-exempt temporary business license to a nonresident business sponsored by a nonprofit organization for special events. Applications for tax-exempt temporary business licenses must be submitted to the Town Manager at least thirty (30) days prior to the special events.

22.04.080 ***Business operated by agent***. Where a licensed person, partnership or corporation acts as an agent for another person, partnership or corporation (hereafter "principal"), and the goods or services are billed for separately by the agent or directly by the principal, the licensee is acting as agent for the principal, and the principal shall be required to be licensed pursuant to the provisions of this Chapter.

22.04.090 ***Applications***. A. Unless otherwise expressly provided, all applications for licenses under this Chapter shall be made to the Town Manager, upon forms provided by the Town Manager. Each applicant shall provide at least the following information:

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i. The nature of the business, profession or trade;

ii. The physical address of the business, profession or trade;

iii. The mailing address for the business, profession or trade;

iv. The date when the applicant commenced doing business in Tonopah;

v. The full name of the applicant and any co-applicants;

vi. If the applicant is a partnership, the full name of each member thereof;

vii. If the applicant is a corporation, a statement as to whether the corporation has complied with the provisions of NRS Chapter 78 or 80, and whether copies of the corporation's articles of incorporation are on file with the Secretary of State of Nevada;

viii. Sufficient information for the determination of taxes to be paid.

B. If the license is sought by a person, partnership or corporation doing business under a fictitious name, such name shall also be set forth in the application.

22.04.100 ***Multiple locations/businesses***. A. A separate business license, together with the applicable basic business license tax, shall be required for each different location that a person, partnership or corporation does business within Tonopah, excepting rental units.

B. Any person, partnership or corporation conducting more than one business at the same location and under the same business name shall be required to apply for and secure only one business license; and no more than one basic business license tax per quarter shall be collected from that person, partnership or corporation. The basic business license tax collected from such a person, partnership or corporation shall be the highest calculated amount for any one of the businesses conducted at the same location.

22.04.110 ***Applications--nonresidents***. A. In the case of nonresident persons, partnerships or corporations doing business or performing a profession or trade within Tonopah, the business license shall be issued for a temporary location only after presentation of the written permission of the owner of the temporary location.

B. In the case of nonresident wholesalers or retailers, an applicant for a business license shall declare the route and/or customers served, and that route and/or customers shall be considered one location for purposes of issuing a business license and determining the fee to be paid.

22.04.120 ***Issuance***. All business licenses issued pursuant to the provisions of this Chapter shall be prepared and issued by the Town Manager.

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22.04.130 ***Contents of license***. Each license issued pursuant to the provisions of this Chapter shall contain on its face the following information:

A. The name of the licensee;

B. A description of the premises or location on or in which the business, profession, trade or calling will be conducted;

C. The name of the licensee's business, profession, trade or calling;

D. The date the license was issued;

E. The period for which the license is issued; and

F. The amount of the tax paid therefor.

22.04.140 ***Posting of license***. Each license issued pursuant to the provisions of this Chapter shall be continuously posted by the licensee in a conspicuous place in the business during the entire term for which the license is issued.

22.04.150 ***Renewal of license***. A. It is not necessary for any licensee to reapply for renewal of his, her or its license upon the expiration of the quarter for which such license was issued, so long as the point total calculated under Article III herein remains unchanged.

B. The Town Manager, prior to the expiration of the quarter for which the license has been paid, shall notify the licensee by

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mail of the date upon which such renewal shall be due, and the amount of the basic business license tax required therefor.

C. No proof of receipt of the said notice is necessary in order to enforce the provisions of this Chapter.

ARTICLE III. BASIC BUSINESS LICENSE TAX

22.04.160 ***Computation and point value***. A. The basic business license tax hereby is fixed at one and one-quarter cents ($.0125) per point per calendar quarter.

B. For purposes of computing the basic business license tax, point values for business classification, location, number of persons engaged in the business, hours of operation, and number of rental units are established and hereinafter set forth in Sections 22.04.220 to 22.04.260.

22.04.170 ***Classifications***. A. For purposes of assessing point values and determining the basic business license tax, all businesses, professions, trades and callings shall be classified in one of four classifications, as hereafter set forth in Sections 22.04.180 to 22.04.210.

B. Where a specific business, profession, trade or calling is not listed in one of the four classifications, the Town Manager shall place the business, profession, trade or calling in the class whose attributes most closely correspond to the those of the applicant's business, profession, trade or calling.

22.04.180 ***Class "A" defined***. Businesses, professions, trades and callings to be classified as Class "A" are persons, partnerships or corporations whose activities or services require a high degree of skill or training, including but not limited to:

Appraisers

Architects

Attorneys

Chiropractors

Consultants, not otherwise specifically classified.

Dental laboratories

Dentists

Doctors, medical

Engineers, professional

Finance companies

Loan offices or agencies

Medical laboratories

Opticians and optometrists

Osteopaths

Public accountants

Real estate brokers and salespersons

Undertakers and funeral homes

Veterinarians

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22.04.190 ***Class "B" defined***. Businesses, professions, trades and callings to be classified as Class "B" are persons, partnerships or corporations who sell or deliver goods or products which are intended to be resold or consumed by someone other than the wholesaler's customer, including but not limited to:

Food and produce distributors

Gasoline and oil distributors

Manufacturers

Mining companies

Wine, liquor and beer distributors

22.04.200 ***Class "C" defined***. Businesses, professions, trades and callings to be classified as Class "C" are persons, partnerships or corporations who sell goods or products intended to be used or consumed by the customer, including but not limited to:

Automobile dealers

Bakeries

Bookstores

Building materials

Delicatessens

Department stores

Drug stores

Feed dealers

Gasoline stations

Grocery stores

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Package liquors

Variety stores

22.04.210 ***Class "D" defined***. Businesses, professions, trades and callings to be classified as Class "D" are persons, partnerships or corporations who provide a service which is primarily labor, or who are engaged in activities providing entertainment, including but not limited to:

Ad agencies

Apartment houses

Arcades

Assayers

Barbershops

Beauty shops

Boardinghouses

Bowling alleys

Bus and stage lines

Cafes

Cattle brokers

Child care

Cleaners

Dance halls

Detective agencies

Employment agencies

Equipment rentals

Freight companies

Furniture movers

Garbage collectors

General repairs

Hotels

Insurance agents

Janitorial services

Laundromats

Mobile home courts

Motels

Newspapers

Parking lots

Photographers and photo shops

Pool halls

Print shops

Radio stations

Recreational vehicle courts

Repair shops

Restaurants

Secretarial services

Sign painters

Stables

Stenographers, public

Tax services

Taxi services

Telegraph companies

Telephone answering services

Television stations

Theaters

Travel agencies

Warehouses

22.04.220 ***Computation--business classification***. A. A point value of one thousand (1,000) points is established for those businesses, professions, trades or callings classified as Class "A" businesses, as provided in Section 22.04.180 herein.

B. A point value of eight hundred (800) points is established for those businesses, professions, trades or callings classified as Class "B" businesses, as provided in Section 22.04.190 herein.

C. A point value of five hundred (500) points is established for those businesses, professions, trades or callings classified as Class "C" businesses, as provided in Section 22.04.200 herein.

D. A point value of three hundred (300) points is established for those businesses, professions, trades or callings classified as Class "C" businesses, as provided in Section 22.04.210 herein.

22.04.230 ***Computation--location***. A point value of three hundred (300) points is established for location of a business, profession, trade or calling within Tonopah.

22.04.240 ***Computation--Number of persons engaged in business***. A. The following point values are established, dependent upon the average number of persons engaged in the applicant's business, profession, trade or calling:

Persons engaged in the business

More than	Including	Points
0	2	200
2	10	1,000
10		2,000

B. For purposes of determining the point value provided in Subsection A herein, each person engaged in, or employed by the business, for less than thirty (30) hours per week shall be counted as one-half (1/2) of a person.

22.04.250 ***Computation--Hours of operation***. The following point values are established, dependent upon the average number of hours of operation per week of the applicant's business, profession, trade or calling:

Average Hours of Operation

More than	Including	Points
0	62	200
62	113	500
113		1,000

22.04.260 ***Computation--rental units***. The following point values are established, dependent upon the number of rental units available for renting or leasing by the applicant's business, profession, trade or calling:

Number of Rental Units Available

More than	Including	Points
2	4	100
4	10	300
11	30	500
30		1,000

22.04.270 ***Payment--term***. A. All basic business license taxes shall be payable quarterly, in advance, on January 1, April 1, July 1, and October 1 of each year.

B. At the time of the initial application for a business license, the applicant shall pay to the Town Manager the total amount of taxes due for the quarter in which the application is filed.

C. Business licenses shall be issued for a quarterly term, or any portion thereof. No proration of the applicable taxes will be made for a business license issued during a quarter.

22.04.280 ***Pre-payment incentive***. A. Any applicant or licensee who/which pays his/her/its basic business license tax prior to the first business day of the quarter for which it is due shall be entitled to a pre-payment incentive, i.e., a twenty percent (20%) reduction in the tax assessed for the quarter which is pre-paid.

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B. Pre-payment of the quarterly basic business license tax is limited to no more than four quarters.

C. No refunds will be made to businesses pre-paying the basic business license tax.

22.04.290 ***Non-payment penalties***. Any licensee who/which fails to timely pay the basic business license tax, as required by this Article, shall be assessed penalties in the following amounts:

A. If the basic business license tax is not received within the first ten (10) days of the quarter for which it is due, a penalty equal to fifty percent (50%) of the tax due will be charged until the end of the first month of the quarter.

B. If the basic business license tax is not received until on or after the first day of the second month of the quarter for which it is due, a penalty equal to seventy-five percent (75%) of the tax due will be charged until the end of the second month of the quarter.

C. If the basic business license tax is not received until on or after the first day of the third month of the quarter for which it is due, a penalty equal to ninety percent (90%) of the tax due shall be charged.

22.04.300 ***Duties of Town Manager--generally***. A. It shall be the duty of the Town Manager to demand that all persons, partnerships or corporations required to procure licenses in accordance with this Chapter apply and pay for the same.

B. The Town Manager shall be held liable on his or her official bond for all monies due for such licenses uncollected by reason of his or her negligence.

22.04.310 ***Duties of Town Manager--accounting***. A. The Town Manager shall keep an accurate account in a book especially provided therefor, and labelled "Tonopah Business License Record," of:

i. All business licenses issued;

ii. The period for which each business license was issued; and

iii. The amount paid and received for each business license.

B. On the first business day of each month, the Town Manager shall pay over to the Nye County Treasurer all monies received by him or her for business licenses, and take from the Nye County Treasurer a receipt therefor. He or she shall on the same day submit to the Nye County Auditor a detailed statement of all business licenses issued by him or her and the amount of all monies received by him or her therefor.

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ARTICLE IV. TRANSIENT LODGING BUSINESS LICENSE TAX

22.04.320 ***Imposition and rate***. A. In addition to the basic business license tax provided for in Article III herein, there hereby is fixed and imposed an additional business license tax for revenue and regulation on every licensee operating a rental business within the Town (hereafter referred to as the "Transient Lodging Business License Tax").

B. Said transient lodging business license tax shall be in the amount of eight (8%) of the gross income derived from room rentals received from each licensee from the renting of rooms and accommodations within the Town.

C. The transient lodging business license tax shall be fixed and imposed upon every building or structure kept as, used as, maintained as or held out to the public to be a place where sleeping and rooming accommodations are furnished to the public, whether with or without meals.

D. The transient lodging business license tax shall be applicable regardless of the length of stay contemplated or completed, and the tax shall be unaffected by the manner or amount of prepayment, if any.

22.04.330 ***Exemptions***. A. There is exempted from the transient lodging business license tax any room or unit which contains a built-in, permanently affixed kitchen, or kitchenette, that is rented for a period of twenty-eight (28) consecutive days or more, and which is paid for in advance for each period of occupancy. To be exempted, the kitchen or kitchenette must have affixed:

i. One stove or oven, or other similar food preparation unit;

ii. A refrigerator or icebox or other similar cold-storage unit; and

iii. A sink or basin, permanently attached to a wall or pipe or other proper part of the premises, designed to catch hot and cold running water from the Town water lines.

B. In the event any one of the three listed requirements is absent from the kitchen or kitchenette, the room or unit shall be considered to be subject to the provisions of this Article.

22.04.340 ***Display of notice***. A. Each licensee who is subject to this Article shall prominently display in each room or suite of rooms leased as a unit or, at the licensee's option, in a lobby at or in the immediate vicinity of the registration desk for the business, a sign reading substantially as follows:

NOTICE

This business is required by law to collect an nine percent (9%) Transient Lodging Tax.

The Management

B. Such signs shall be furnished by the Town of Tonopah at no expense to the licensee.

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22.04.350 ***Collection of tax from tenants***. A. Every licensee who is subject to this Article is required to collect from each renter or lessee the amount of the transient lodging business license tax due on the premises rented or leased.

B. Such licensee is liable to the Town for the full amount of the transient lodging business license tax, regardless of whether or not the licensee collects the tax from the tenants, and regardless of whom the tenants may be.

22.04.360 ***Payment of tax***. A. The transient lodging business license tax shall become due and payable to the Nye County Treasurer on the first (1st) day of each month next succeeding the calendar month, or fraction thereof, during which the tax accrued.

B. The transient lodging business license tax shall become delinquent after the fifteenth (15th) day of each month next succeeding the calendar month, or fraction thereof, during which the tax accrued.

22.04.370 ***Penalty and interest***. A. A licensee who is subject to this Article and who fails to deliver transient lodging business license tax monies to the Nye County Treasurer within fifteen (15) days after the due date set out in Section 22.04.350 herein shall be liable to pay a penalty of ten percent (10%) of the monies due and owing.

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B. A licensee who is subject to this Article and who fails to deliver transient lodging business license tax monies to the Nye County Treasurer on or before the due date set out in Section 22.04.350 herein shall be assessed interest on the total amount of taxes owing, at a rate of one percent (1%) per month, accruing from the due date.

22.04.380 ***Cooperation with Tonopah Town Manager***. Each licensee who is subject to this Article shall cooperate with the Tonopah Town Manager in the enforcement of this Article, as follows:

A. By timely completing and submitting the annual questionnaire/application sent to the licensee by the Tonopah Town Manager;

B. By complying with any and all requests by the Tonopah Town Manager to examine and audit the books, papers and records of the rental business; and

C. By cooperating with the Tonopah Town Manager regarding any investigation made by the Tonopah Town Manager in connection with the collection of the transient lodging business license tax.

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ARTICLE V. SUSPENSION AND REVOCATION OF LICENSE

22.04.390 ***Suspension***. A. The Town Board may revoke and/or suspend any license granted under this Chapter whenever the Town Board has reason to believe that:

i. The business conducted thereunder by the licensee or his agent, servants or employees is a nuisance, menace to the public health or detrimental to the peace, morals or welfare of the inhabitants of the Town; or

ii. Violations of the laws of the state or the ordinances of this Town or Nye County have been committed, or are being permitted to be committed upon the premises where such business is being conducted.

B. Such revocation and/or suspension shall be by resolution duly made, and carried and spread upon the minutes of the Town Board after the hearing and notice thereof as provided herein.

22.04.400 ***Show cause hearing***. A. Upon a complaint being made to the Town Board by any person that the license issued under this Chapter should be revoked and/or suspended, the Town Board may direct that an order to show cause be issued, directing the licensee to appear and show cause why his/her/its license should not be revoked or suspended.

B. Before taking any action to revoke a license, the Town Board shall provide the licensee against whom the proceedings are brought, written specifications charging the licensee with the acts or failures upon which the disciplinary proceedings are brought, and setting a date and time for a hearing in the matter. The charging instrument shall be verified and shall be served upon the licensee in the same manner as a Summons, not later than ten (10) days before the hearing.

C. The licensee must answer within ten (10) days after service of the charging document. The licensee's answer must:

i. State in short and plain terms the defenses to each claim asserted.

ii. Admit or deny the facts alleged in the charging instrument.

iii. State which allegations he/she/it is without knowledge or information to for a belief as to their truth. Such allegations shall be deemed denied.

iv. Affirmatively set for any matter which constitutes an avoidance or affirmative defense.

D. Failure of the licensee to answer or to appear at the hearing constitutes an admission by the licensee of all facts alleged in the charging instrument. The Town Board may revoke or suspend a license upon such an admission and on other evidence without further notice to the licensee.

E. At any hearing to revoke or suspend a license, the following procedure shall apply:

i. Oral testimony may be taken only upon oath administered by the clerk of the Town Board.

ii. The parties to the hearing have the right to call and examine witnesses; introduce exhibits relevant to the issues of the case; cross-examine witnesses on any matters relevant to the issues of the case; impeach any witness; and offer rebuttal evidence.

iii. If the licensee does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

iv. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted and is sufficient in itself to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.

v. The parties or their counsel may by written stipulation agree that certain specified evidence may be admitted even though such evidence might otherwise be subject to objection.

vi. The Town Board may take official notice of any generally accepted information and of any other fact which may be judicially noticed by the courts of this state. The parties must be informed of any information, matters or facts so noticed, and must be given a reasonable opportunity, on request, to refute such information, matters or facts by evidence or by written or oral presentation of authorities.

F. The Town Board shall consider all evidence and testimony in support of and in opposition to the charges. For good cause, the Town Board may continue the hearing to its next regular meeting.

G. At the conclusion of the hearing, the Town Board may:

i. Issue its order dismissing the order to show cause;

ii. Suspend the license for a time upon such terms and conditions as it deems fit; or

iii. Revoke the license.

H. All findings, conclusions, decisions and action taken by the Town Board shall be entered into the minutes of the Town Board.

I. Notice of the Town Board's findings, decision and order shall be served upon the licensee.

J. Any revocation or suspension of a license shall be effective upon service of the notice of revocation or suspension.

22.04.410 ***Appeals***. A. Any decision hereunder of the Town Board may be appealed to the Fifth Judicial District Court, in and for the County of Nye.

B. Written notice of such appeal shall be given to the Town Clerk within thirty (30) calendar days of the decision by the Town Board.

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ARTICLE VI. MISCELLANEOUS REGULATIONS

22.04.420 ***Violation a misdemeanor***. Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and may be prosecuted and punished as provided by the laws of the state.

22.04.430 ***Injunctive relief***. The Town, in addition to the remedies and penalties above named, shall have injunctive relief against any violator of this Chapter, with or without prior notice, to prevent or correct problem arising from the violation of this Chapter.

REPEAL. This ordinance supersedes and repeals any and all Tonopah Town ordinances or parts of ordinances in conflict herewith.

SEVERABILITY. If any provision of this ordinance or amendments thereto, or the application thereof to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity or provisions or applications of the ordinance or amendments thereto which can be given effect without the invalid provisions or applications, and to this end the provisions of this ordinance and amendments thereto are declared to be severable.

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CONSTITUTIONALITY. If any section, clause or phrase of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall continue in full force and effect.

EFFECTIVE DATE. This ordinance shall be in full force and effect from and after passage, approval and publication as required by law.

Proposed on the 13th day of July, 1994.

Proposed by Town Board Member Ken Bourns.

Passed on the 13th day of July, 1994.

VOTE: AYES: Town Board Members Dave Hamilton, Judy Camarillo, Ken Bourns, Sandy Harmon, and Paul Fountain.

NAYES: Town Board Members -0-.

ABSENT: Town Board Members -0-.

TOWN BOARD OF THE UNINCORPORATED TOWN OF TONOPAH, COUNTY OF NYE, STATE OF NEVADA

By: David K. Hamilton
David K. Hamilton, Chairman

ATTEST:

Sandra L. Pettis
Sandra L. Pettis, Tonopah Town Clerk
and Ex-Officio Clerk of the Town Board

This ordinance shall be in force and effect from and after the 1st day of September, 1994.