

ORDINANCE NO. 24-

**AN ORDINANCE OF THE TOWN COUNCIL
OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA,
AMENDING MUNICIPAL CODE CHAPTERS 3.12 AND 5.40
REGARDING TRANSIENT OCCUPANCY TAX AND
TRANSIENT RENTAL OF RESIDENTIAL UNITS**

WHEREAS, the Town Council has previously adopted Chapter 3.12 of the Mammoth Lakes Municipal Code, establishing a transient occupancy tax and providing for its collection; and

WHEREAS, the Town Council has previously adopted Chapter 5.40 of the Mammoth Lakes Municipal Code, establishing operating requirements for properties used as transient rentals; and

WHEREAS, the STR Advisory Committee and Town staff have identified a number of ways in which Chapters 3.12 and 5.40 can be improved, including the replacement of the existing transient occupancy tax certificate system with a “certified property” structure, providing for additional disclosures by operators of transient occupancy units, and providing owners of properties used as short-term rentals with greater flexibility in how they manage and operate those properties; and

WHEREAS, the amendments to Chapter 3.12 addressed in this ordinance do not increase or extend the Town’s transient occupancy tax, or expand the incidence of taxation, and thus do not require approval by Mammoth Lakes voters.

THE TOWN COUNCIL OF THE TOWN OF MAMMOTH LAKES, STATE OF CALIFORNIA, DOES ORDAIN AS FOLLOWS:

Section 1: The Town Council hereby amends the Mammoth Lakes Municipal Code by amending and restating Chapters 3.12 (Transient Occupancy Tax) and 5.40 (Transient Rentals of Residential Units) of the Municipal Code to read as set forth in Exhibits “A” and “B”, respectively, attached hereto and incorporated herein.

Section 2: EFFECTIVE DATE OF ORDINANCE

This Ordinance shall become effective and enforceable thirty (30) days from and after the date of its adoption, provided that the amendments to Chapters 3.12 and 5.40 shall be effective as of 12:00 am on Monday, April 22, 2024.

Section 3: POSTING

The Town Clerk shall, within fifteen (15) days after the passage of this ordinance, cause it to be posted at the duly designated posting places established by resolution of the Town

Council, published once in a newspaper of general circulation, and entered in the Book of Ordinances of the Town.

Section 4: SEVERABILITY

If any provision of this ordinance of the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this ordinance are declared to be severable.

The foregoing Ordinance was introduced on the 6th day of March, 2024, and PASSED, APPROVED, AND ADOPTED on the 20th day of March, 2024.

BILL SAUSER, Mayor

ATTEST:

JAMIE GRAY, Town Clerk

EXHIBIT "A"

CHAPTER 3.12 – TRANSIENT OCCUPANCY TAX

Sections:

3.12.010 - Title.

The ordinance codified in this chapter shall be known as "the uniform transient occupancy tax ordinance of the Town of Mammoth Lakes."

3.12.020 - Definitions.

For the purposes of this chapter, the following words shall have the meanings set forth in this section:

"Allowable exemptions" means certain revenue that is exempt, as set forth in this chapter, from the imposition of transient occupancy tax for qualifying circumstances and requiring documentation. Qualifying circumstances include guest stays of 31 consecutive days or more, federal government employees on official business with a government issued credit card demonstrating TOT tax exempt eligibility, employees of federal instrumentalities, officers of a foreign government which is exempt by reason of express provision of federal or international law, employees of federal credit unions organized and operating under the Federal Credit Union Act, employees of insurance companies while performing insurance related business and those which pay the California State Gross Premiums tax annually pursuant to California Constitution Article XIII, Section 28, in lieu of all other taxes, State government employees on official business with documentation showing tax-exempt eligibility and all others designated by the Town.

"Certified Property" means a transient occupancy unit that is certified to conduct transient rentals by the Town of Mammoth Lakes.

"Collector" or "Tax collector" means the Finance Director or other person designated by the Town Manager or Town Council of the Town of Mammoth Lakes to administer this chapter and oversee the collection of transient occupancy taxes.

"Delinquency period" spans from the 21st day of any month through the 20th day of the following month, except when the 20th day falls on a Saturday, Sunday, or holiday in which case the delinquency period shall be after the next business day or as designated by the tax collector.

"Employee" means any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.

“Gross rents” means the total amount of revenue received from all sources in connection with the operation of a transient occupancy unit during the period.

"Enforcement charges" means all costs and expenses including, but not limited to, administrative costs and enforcement costs including the value of staff time, accounting fees, expert witness fees, attorney's fees, and court costs.

"Fraud" has the meanings contained in Sections 1709 and 1710 of the California Civil Code.

“Local 24-hour emergency contact” means a business with a Town of Mammoth Lakes business tax certificate providing those specific services within their business model, or an operator living within sixty miles of the Town. Failure to maintain a business tax certificate as a local 24-hour emergency contact will eliminate the ability to qualify as a local 24-hour emergency contact. The local 24-hour emergency contact shall be personally available by telephone on a twenty-four-hour basis to respond to calls regarding the condition and/or operation of the unit.

“Mobile home” shall be construed as defined in Section 18008 of the Health and Safety Code of the State, and the provisions of this chapter shall apply only to such mobile homes as are outside of a mobile home park as defined in the Health and Safety Code, and further, the provisions of this chapter shall not apply to the renting of a mobile home when the occupant is the owner or operator of the mobile home or his employee.

“Occupancy” means the use, possession, or the right to use or possession of any portion of any transient occupancy unit for overnight sleeping, lodging, dwelling, or similar purposes.

“Operator” means the person who is a legal owner of the transient occupancy unit. “Operator” also means a person who has the legal right to possession of the premises occupied by transients. “Operator” also means any person who, through lease, mortgage, contract, license, or similar legal right obtains any right to receive or collect any money as rent for the occupancy of the transient occupancy unit by transients. “Operator” also means any manager, agent, representative, or other similar person acting on the authority of an owner of a transient occupancy unit or on the authority of any person who by reason of lease, mortgage, contract, license, or similar legal right to receive or collect rent for the occupancy of the transient occupancy unit by transients, which agent, manager, or representative has been authorized to

receive or collect rent for the occupancy of the transient occupancy unit by transients. Compliance with the provisions of this chapter by any operator of a transient unit shall be deemed to be in compliance by all operators of such transient occupancy unit.

“Owner” means the legal registered owner or proprietor of the property or unit.

“Person” means any person, or any group or combination of people acting in a business capacity and shall be considered to include, but not be limited to, the following: individual; firm; partnership, whether limited or general; corporation; real estate or business trust; syndicate; joint tenants; tenants in common; receiver or trustee; unincorporated association; joint venture; joint stock company.

“Rent” means the charge for the occupancy of any space in any transient occupancy unit and for all services rendered in connection therewith, including but not limited to cleaning services, in the form of money, goods, services or similar payment, including, but not limited to, all receipts, cash, credits, goods, property and services of any kind or nature, without any deduction whatsoever, provided that bona fide charges for food and beverages actually consumed, and any amounts paid by the transient occupant which are separately identified on the invoice, receipt, or statement of charges as representing a tourism business improvement district assessment, shall not be considered “rent.” The Town Council may, at any time, remove and/or repeal the exception for tourism business improvement district assessments.

“Remittance period” spans from the 1st day of any month to the last day of the same month or as designated by the tax collector.

“Taxable gross rents” means the total amount of revenue passed through the renter and received from all sources during the remittance period subject to taxation. Taxable gross rents include but are not limited to nightly rent, cleaning fees, additional occupant fees, civic fees, pet fees, resort fees, early/late arrival or departure fees, no show fees, forfeited deposits, online rental platform reservation and booking fees charged to the operator and passed on to the renter.

“Transfer” means the act by virtue of which title to a property is conveyed from one person, business structure, partnership, corporation, non-profit, trust or other entity in the form of sale, money transfer, lease, license, lien, gift, or any other way of disposing of a property or asset.

“Transient” means any person who exercises, or is entitled to exercise, occupancy, whether by agreement (oral or written), concession, permit, right of access, license, contract, payment of rent or similar entitlement, for a period of thirty (30) consecutive calendar days or less, counting

portions of calendar days as full days. Any person so occupying space in a transient occupancy unit shall be deemed to be a transient until the period of thirty (30) days has expired, unless there is a lease agreement or month-to-month rental agreement in writing between the operator and the transient, providing for a period of occupancy in excess of thirty (30) days. In determining whether a person is a transient, uninterrupted periods of time extending both prior to and subsequent to the effective date of this chapter and any amendments hereto, may be considered by the tax collector.

“Transient occupancy unit” means any place, space or structure, or portion of any place, space or structure, which is or may be occupied, or intended or designed for occupancy by transients for purposes of sleeping, lodging or similar use in conformance with the Town’s zoning regulations, and shall include, but not be limited to the following: hotel, hotel-motel, lodge; inn; dude ranch; apartment; apartment unit; condominium; condominium unit; triplex; duplex; single-family residence; cooperative; mobile home; motor home, trailer, dormitory; rooming house; camping site; space where camping or remaining overnight is permitted at a campground, recreational vehicle park; or other similar structure, facility or space. “Transient occupancy unit” shall not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, owner-occupied time share estate, owner-occupied time share use, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other unit or facility in which human beings are detained or housed under legal restraint; housing owned or controlled by any educational institution and used exclusively by students and employees of such educational institutions, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualified for exemption from property taxes under the laws of the state of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by any employer exclusively for housing that employer’s employees.

“Transient rental” Occupation of a transient occupancy unit for a period of 30 days or less.

“Visitor expectation guide” means a guide that is published by the Town on an annual basis and adopted by resolution of the Town Council. The current version of the transient visitor expectation guide must be posted in the transient occupancy unit in a visible location.

3.12.030 – Operators—Duties.

Operators shall:

- A. Assist the Town Police Department with respect to law enforcement problems that might arise in conjunction with the occupancy of the operator's transient occupancy unit.
- B. Allow inspection of the premises at any time by inspectors of the Town and by inspectors of the Mammoth Lakes Fire Protection District as provided by law to determine the compliance of the premises with the codes and ordinances of the Town and the codes and ordinances of the Mammoth Lakes Fire Protection District.
- C. Take all reasonable and necessary action to ensure that transients occupying that operator's transient occupancy unit do not interfere with employees of the Town in carrying out their duties.
- D. Ensure that there is adequate parking space(s) available for transients occupying the transient occupancy unit for the maximum number of allowable vehicles as certified by the Town and pursuant to the requirements of this Code. If the transient occupancy unit books rooms with persons who utilize tour bus(es), the operator of the unit shall be required to furnish, or make suitable arrangements for furnishing, adequate parking for the tour bus(es) utilizing either onsite or offsite facilities at locations where tour bus parking is permitted.
- E. Maintain a set of books and records, which shall contain all of the information necessary for the computation of any tax due pursuant to this chapter, notify the Tax Collector of the location of such books and records, and permit inspection of such books and records during normal working hours. Upon ten (10) calendar days' written request by the Tax Collector, such records shall be available at operator's expense, in the Town, during normal working hours.
- F. Accept service of process for the operator's alleged violation of this chapter.
- G. Not operate any transient occupancy unit in violation of any provision of this chapter.
- H. Post faithful performance or similar bonds in such amount as may be required by the Tax Collector.
- I. Operators shall maintain accurate personal contact information on file with the Town at all times.

3.12.040 – Tax imposed.

For the privilege of occupancy of any transient occupancy unit, each transient is subject to and shall pay a tax in the amount of thirteen percent (13%) of the taxable gross rents charged by the operator. The tax constitutes a debt owed by the transient to the Town which is extinguished only by payment to the operator or to the Tax Collector. The transient shall pay the tax to the operator of the transient occupancy unit at the time the rent is paid. If the taxable amount is paid in installments, the unpaid tax shall be paid to the operator at the rate of thirteen percent (13%). If for any reason the tax due is not paid to the operator of the transient occupancy unit, the Tax Collector may require that such tax be paid by the transient to the Tax Collector.

3.12.050 – Operator’s duties to collect tax.

A. Each operator shall collect, and hold in trust for the Town, the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a transient occupancy unit shall 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 chapter.

B. Each operator shall have a local 24-hour emergency contact who is available at all times to respond to questions and issues arising out of the transient occupancy. Failure to respond to calls in a timely and appropriate manner on two (2) occasions shall result in revocation of the Certified Property authorization for the transient occupancy unit and the eligibility as a 24-hour emergency contact. For purposes of this chapter, responding in a timely and appropriate manner shall mean that a response to an initial call shall be made within one (1) hour of the time the call was made, and within twenty-four (24) hours of the initial call, corrective action shall be commenced to address any violation of this Chapter and/or Chapter 5.40. Upon request from the Town, an operator shall furnish the names of each vendor or contractor supplying services to a Certified Property.

C. Each operator shall identify to the Town the cleaning service for each Certified Property and update the contact information of the cleaning service as necessary. A cleaning service

shall be a Town of Mammoth Lakes business tax certificate holder pursuant to Chapter 5.04 of this Code.

D. On request from the Town, an operator shall furnish the names of each vendor or contractor supplying services to a Certified Property.

3.12.060 - Posting requirements.

Each transient occupancy unit shall have a notice posted within the unit in a location clearly marked and accessible to the transient (e.g. posted on the refrigerator, included within a binder with additional information on the unit, etc.), containing all of the following information:

1. The maximum number of occupants permitted to stay overnight in the unit.
2. The maximum number of vehicles associated with the transient rental allowed to be parked on the property.
3. The location of on-site parking spaces and the parking rules for seasonal snow removal.
4. Notification that an occupant, as a person responsible for an unlawful large party, may be cited and fined for creating a disturbance or for violating other provisions of Chapter 5.40.
5. Notification that trash and refuse shall not be left or stored on the property unless it is deposited in bear resistant containers intended for pickup by the Town's solid waste contractor. Alternatively, trash may be deposited within a dumpster serving the property or at the transfer station for a fee. Trash information should include specific instructions on opening and securing the animal resistant dumpsters.
6. Notification that failure to conform to the parking and occupancy requirements for the transient occupancy unit is a violation of the Town's Municipal Code.

7. The name of the managing agency or agent and a telephone number at which that party may be reached on a twenty-four (24) hour basis.
8. The name and phone number of the cleaning service provider for the certified property.
9. Physical street address of the unit and emergency contact information consisting of 911 and non-emergency contact information for the Mammoth Lakes Fire Protection District and Mammoth Lakes Police Department.
10. Evacuation plan for the unit showing exit routes, exits, and fire extinguisher locations. Evacuation plans may be hand-drawn and do not need to be drawn to scale but should clearly show occupants how to exit the premises in the case of an emergency.
11. The current version of the visitor expectation guide that is published by the Town on an annual basis as adopted by resolution of the Town Council.

3.12.070 - Registration.

Each transient occupancy unit shall be registered with the Tax Collector prior to commencing business. It shall be unlawful to conduct transient rentals without: (i) having first procured a Certified Property authorization; (ii) paying the tax prescribed in this title; and (iii) complying with any and all applicable provisions of this Chapter and/or Chapter 5.40. Upon proper application and payment, the Tax Collector shall issue a Certified Property authorization to the operator, in accordance with the provisions of this Chapter. The fees for a Certified Property authorization shall be established by resolution of the Town Council.

3.12.080 - Unauthorized operation of a transient occupancy unit.

A. Any operator who fails to obtain a Certified Property authorization for a transient occupancy unit shall be in violation of this Chapter and shall be subject to all of the provisions of Chapter 3.12, in addition to being subject to all other remedies provided by

- law. It shall be a separate violation of this Chapter for failure to obtain a Certified Property authorization for each day the operator is required to hold such authorization.
- B. In addition to the foregoing, each person, business entity or other entity operating a transient occupancy unit shall be subject to taxation and be liable to the Town for taxes, penalties, interest, and enforcement charges, imposed by this Chapter. Such taxes, penalties, interest, and enforcement charges may be collected by the Town as otherwise provided in this Chapter.
- C. When any operator or other person shall by use of any promotional media—including but not limited to print, audio, visual or electronic media including web sites, web marketing, advertising or promotional websites, social media, or traditional promotional methods, including but not limited to signs, circulars, bills, cards, telephone books, or newspapers—promote, market, advertise, hold out or represent that they or an entity they own, operate, manage, or control a transient occupancy unit these facts shall be considered prima facie evidence that such person is acting as an operator.

3.12.090 - Reporting and remitting.

- A. Operators shall make their return and remittance on or before the 20th day of the month following each and every month, or at the close of any alternate remittance period which may be established by the Tax Collector. If: (i) the 20th day of the month following a particular month; or (ii) the deadline established at the close of any alternate remittance period which may be established by the tax collector, is a Saturday, Sunday, federal or Town holiday, the return and remittance will be considered timely if received the next working day.
- B. At the time the return is filed, the full amount of the tax collected shall be paid to the Tax Collector. The Tax Collector shall establish an alternate remittance period for an operator if he /she deems it necessary in order to ensure collection of the tax or due to previous noncompliance with this Chapter by the operator, and the Tax Collector may require further information in the return. Returns and payments are due within fifteen (15) days upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the Town until payment thereof is made to the Tax Collector. The Tax Collector may, in his/her discretion, require that a separate trust

account be established at a financial institution of his/her choice, the balance of which shall be payable to the Town, if he / she deems it necessary in order to insure remittance of the tax.

- C. Each return filed pursuant to this Chapter shall include the following information, as well as such other information as the Tax Collector may deem reasonably necessary for the enforcement of this Chapter:
1. The number of nights each Certified Property was available for rent during the remittance period.
 2. The number of nights of paid occupancy for each Certified Property during the remittance period.
 - 3.. The number of unpaid nights each Certified Property was occupied during the remittance period.
 4. The gross rents for each Certified Property, allowable exemptions, taxable gross rents and the amount of the tax, penalties, and interest that is due and payable during the remittance period.
 5. And other statistical breakdowns as requested by the Tax Collector on the monthly return form.
- D. The full amount of the rent shall be reported for the Certified Property on the monthly return based on the departure date of the transient.

3.12.100 - Original delinquency.

Any operator who fails to pay any tax or file any return imposed by this Chapter within the time required shall pay, in addition to such tax and any interest such tax may accrue, an original delinquency penalty of ten dollars (\$10) or fifteen percent (15%) of the amount of the tax, whichever dollar amount is greater. Every penalty imposed, and such interest as accrues under the provisions of this Chapter, shall become part of the tax required to be paid. Interest shall accrue on all unpaid taxes until paid.

3.12.110 - Continued delinquency.

A. Any operator who fails to pay any delinquent tax, penalties, and interest during the original delinquency period, shall pay an additional delinquency penalty, over and above that provided

in Section 3.12.100, of ten dollars (\$10) or fifteen percent (15%) of the amount of the tax, penalties and interest then due, whichever is greater.

B. The tax collector shall give written notice to any operator who fails to report or remit tax, penalties, and interest for two delinquency periods. The notice shall include the intention to revoke the business tax certificate and/or Certified Property authorization after fifteen (15) days from the date on the notice should the returns due not be filed and/or the taxes, penalties, and interest then due not be paid. Written notice shall be deemed given when a copy of the same is enclosed in a sealed envelope with postage thereon fully prepaid and certified in the United States mail and addressed to that address given by the operator in the application for the business tax certificate and/or Certified Property. The business tax certificate and/or Certified Property authorization shall be revoked upon lapse of the fifteen (15) days provided in the notice, if all taxes, penalties, and interest are not paid in full within the fifteen (15) day period.

3.12.120 - Adjustment of penalty and interest.

Notwithstanding Sections 3.12.100 and 3.12.110, if the Tax Collector determines that any of the requirements established by the Town for notifying an operator of a transient occupancy unit is delinquent in remitting a return and paying tax as required by this Chapter have not been met, the Tax Collector may reduce the penalty and interest due on an account to only one month of penalties and interest.

3.12.130 - Fraud.

A. If the tax collector determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25) percent of the amount of the tax shall be added thereto in addition to all other penalties provided in this Chapter.

B. In addition to the penalty established in the preceding sentence, if an operator without a business tax certificate is found to have committed a violation of nonpayment of any remittance due under this Chapter for a second or subsequent instance the operator will be deemed to have committed fraud and is subject to an additional penalty of twenty-five (25%) percent of the amount of the tax due for each case.

C. An operator who collects taxes and fails to remit shall be deemed to have committed fraud.

3.12.140 - Interest.

In addition to the penalties imposed by this Chapter, any operator who fails to remit any tax imposed by this Chapter shall pay interest at the rate of one and one-half percent (1.5%) per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the remittance first become delinquent, until paid.

3.12.150 - Collection and report failure—Tax collector determination.

If any operator fails or refuses to collect the tax imposed by this Chapter and to make, within the time provided in this Chapter, any report and remittance of the tax or any portion thereof required by this Chapter, the Tax Collector shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due, or by estimation if no records are available. As soon as the Tax Collector procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this Chapter and payable by an operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest, penalties, and enforcement charges provided for by this Chapter. In case such determination is made, the Tax Collector shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, first class postage prepaid and certified, addressed to the operator so assessed at his/her last known address. Such operator may within fifteen (15) days after the serving or mailing of such notice make application in writing to the Tax Collector for a hearing on the amount assessed. If application by the operator for hearing is not made within the time prescribed, the tax, interest, penalties, and enforcement charges, if any, determined by the Tax Collector, shall become final, conclusive, and immediately due and payable. If such application is made, the Tax Collector shall give not less than five (5) days' written notice in the manner prescribed in this Chapter to the operator to show cause at the time and place fixed in the notice why the amount specified therein should not be fixed at such tax, interest, penalties, and enforcement charges. At such hearing, the operator may appear and offer clear and convincing evidence why such specified tax, interest, penalties, and enforcement charges should not be so fixed. After such hearing the Tax Collector shall determine the proper amount to be remitted and shall thereafter give written notice to the person in the manner prescribed in this Chapter of such determination and the amount of such tax, interest, penalties, and enforcement charges, including enforcement charges related to the hearing. The amount determined to be due

shall be payable within fifteen (15) days unless an appeal is taken as provided in Section 3.12.160. On good cause, the Certified Property authorization may be suspended by the Tax Collector pending the hearing as herein appeal thereof. An operator who fails to secure a Certified Property authorization for the transient occupancy unit prior to conducting transient rentals or soliciting for transient rentals through any promotional media shall be subject to enforcement charges regardless of whether tax, penalties, or interest are found to be due.

3.12.160 - Appeal.

A. Any operator aggrieved by any decision of the Tax Collector with respect to the amount of such tax, interest, penalties, enforcement charges or suspension, if any, may appeal to the Town Council by filing a notice of appeal with the Town Clerk within fifteen days of the serving or mailing of the determination of tax due; provided, that he has completed all administrative procedures and sought all administrative remedies in Section 3.12.150 including appearance in person or through legal counsel at all administrative hearings. The Town Council shall fix a time and place for hearing such appeal, and the Town Clerk shall give notice in writing and/or via electronic mail to such operator at his last known place of address. The findings of the Town Council shall be final and conclusive and shall be served upon the appellate in the manner prescribed above for service of 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 issue in any suit, action or proceeding in any court against the Town or an officer thereof, to prevent or enjoin the collection of taxes 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.

3.12.170 - Records required.

It shall be the duty of every operator to keep and preserve, for a period of three (3) years all records as may be necessary to determine the amount of such tax, interest, penalties, and enforcement charges, as may have been due to the Town, which records the Tax Collector, or

his agent shall have the right to inspect at all reasonable times. All tax returns and information furnished by any operator pursuant to this Chapter shall be confidential and shall not be open to the public inspection nor the specific contents thereof disclosed by any officer or employee except as necessary in the performance of official duty pursuant to this Chapter, or in the course of proceedings, hearing or litigation involving the existence or amount of tax, interest, penalties or enforcement charges, or with the written consent of the operator or his authorized representative.

3.12.180 – Revocation of business tax certificate or Certified Property authorization.

If the tax collector determines that any operator has fraudulently misrepresented the financial condition determining the amount of revenue collected or tax owed by providing false or misleading information, the operator shall be subject to an administrative fine of one thousand dollars and revocation of the associated business tax certificate and all Certified Property authorizations. No new business tax certificates or Certified Property authorizations shall be issued to the operator or for the transient occupancy unit for a period of three months for the first violation, six months for the second violation, and twelve months following all subsequent violations.

3.12.190 – Refunds - Authorized when.

Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Town under this Chapter, it may be refunded as provided in Sections 3.12.200 and 3.12.210, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Tax Collector within three (3) years of the date of payment. Persons claiming refunds shall provide all information required by the Tax Collector to determine the validity of refunds claimed. No refund shall be paid unless the claim has been reviewed and the entitlement to the refund determined to be valid by the Tax Collector. The Tax Collector shall not refund any tax, interest or penalties if said tax, interest or penalties have previously been determined as final by the Town Council.

3.12.200 - Refunds—Credit against taxes.

Any operator may claim 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 Tax Collector that the person from whom the tax has been collected was not a transient; provided, however, that 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.

3.12.210 - Refunds—Repayment to transient.

A transient may obtain a refund of tax, penalty or interest overpaid or paid more than once or erroneously or illegally collected or received by the Town by filing a claim in the manner provided in Section 3.12.190, but only when the tax was paid by the transient directly to the Tax Collector, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the Tax Collector that the transient has been unable to obtain a refund from the operator who collected and remitted the tax.

3.12.220 - Refunds—Records required.

No refund shall be paid under the provisions of Sections 3.12.190 through 3.12.210 unless the claimant establishes his right thereto by written records showing entitlement thereto by clear and convincing evidence.

3.12.230 - Tax responsibility.

Any tax required to be paid by any transient under the provisions of this Chapter shall be deemed a debt owed by the transient to the Town. Any such tax collected by an operator which has not been paid to the Town shall be deemed a debt owed by the operator to the Town. Any person owing money to the Town under the provisions of this Chapter shall be liable to an action brought in the name of the Town for the recovery of such amount, including interest, penalties, and enforcement charges. Property owners, including those represented by an operator other than

the owner, shall be liable for any and all unpaid taxes, penalties, interest, and enforcement charges and subject to all enforcement actions pursuant to this Chapter.

3.12.240 - Current business tax certificate required.

All Certified Properties applicants shall identify the business tax certificate by which the reporting required in 3.12.090 will be submitted to the Town and shall report gross receipts on a monthly basis, even when the gross receipts total is zero. Remittance of taxes, penalties, and interest can be completed under one monthly return as long as all rents, allowable exemptions, and statistical data for each Certified Property authorization are included. The Town shall revoke the Certified Property authorization for any transient occupancy unit without a business tax certificate after thirty days.

3.12.250 - Delinquency—Certificate required.

If any tax, interest, or penalty imposed under this Chapter is not paid by the 20th day of the month succeeding the delinquency date, the Tax Collector may file no sooner than ten (10) days after the mailing of the notice required in subsection B of this section, in the office of the County Clerk, without fee, a certificate specifying as follows:

- A. The fact that a notice of intent to file the certificate had been sent, by certified mail, to the operator, at his/her last known address, not less than ten (10) days prior to the date of the certificate.
- B. The fact that the notice required in subsection A of this section set forth the following information:
 - 1. The name of the property owner
 - 2. The fact that judgment will be sought in the amount of the tax, penalty, interest, and enforcement charges that will remain unpaid at the time of the filing of the certificate;
 - 3. The fact that, upon the issuance and recordation of such judgment, additional penalties and interest will continue to accrue at the rate prescribed by law, and that any bond premium posted or other costs to enforce the judgment shall be an added charge; and

4. The fact that a recording fee of five (5) dollars per page will be required to be paid for the purpose of the recordation of any release of the judgment lien.
- C. The amount for which judgment is to be entered.
- D. The fact that there has been compliance with all provisions of this Chapter in the computation and the levy of the tax, penalty, interest, and enforcement charges.
- E. The fact that a request is therein made for the issuance and entry of judgment against the transient occupancy tax registration certificate holder.

3.12.260- Certificate filing—Entry of judgment.

The County Clerk, immediately upon the filing of the certificate, shall enter a judgment for the Town against the property owner in the amount of the tax, penalty, interest, and enforcement charges set forth in the certificate. The County Clerk may file the judgment in a looseleaf book entitled "Town of Mammoth Lakes Transient Occupancy Tax Judgments."

3.12.270 - Lien on property.

An abstract or a copy of the judgment shall be recorded, without fee, in the office of the County Recorder. From the time of the recording, the amount of the tax, penalty, interest, and enforcement charges set forth constitutes a lien upon all property of the owner, owned by him/her or afterward acquired by him/her, and before the lien expires. The lien has the force, effect, and priority of a judgment lien and continues for ten (10) years from the date of the recording unless sooner released or otherwise discharged.

3.12.280 - Penalty—Additional.

In addition to any penalty or fee imposed pursuant to this Chapter a penalty equal to the amount of any bond premium posted or other costs incurred to enforce the judgment entered pursuant to this Chapter shall be imposed.

3.12.290 - Execution upon judgment.

Execution shall issue upon the judgment upon request of the Tax Collector in the same manner as execution may issue upon other judgments, and sales shall be held under such execution as prescribed in the Code of Civil Procedure.

3.12.300 - Satisfaction of judgment—Removal of lien.

- A. The judgment is satisfied, and the lien removed when, but not before, the certificate of release or discharge from the judgment lien is recorded in the office of the County Recorder. In addition to the judgment amount, and any additional penalty or interest accruing on the judgment, the Tax Collector shall collect the recording fee of five (5) dollars per page for the recording of the lien release or discharge document and transmit it to the County Recorder together with the documents for release or discharge.
- B. The judgment is also satisfied, and the lien removed when, but not before, the tax is legally canceled and a release or discharge from the judgment lien is recorded in the office of the County Recorder. A recording under this subdivision shall be made without fee.

3.12.310 - Violation—Penalty.

A. Any person, including any transient, who violates any of the provisions of this Chapter shall be guilty of an infraction. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued or permitted by such person, and may be punished accordingly. The foregoing notwithstanding, in the discretion of the District Attorney or the Town Attorney, upon a showing of gravity of offense, any violation of any provision of this Chapter may be prosecuted as a misdemeanor.

B. Other than delinquent tax remittal addressed in Sections [3.12.090](#) through [3.12.110](#), any person, including any transient, who violates any provision of this chapter may be subject to administrative fines as set forth in [Chapter 8.32](#), provided that such violations shall be subject to a fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation, a fine not exceeding three thousand dollars (\$3,000) for a second violation of this Chapter or Chapter 5.40 within one year, and a fine not exceeding five thousand dollars (\$5,000) for each additional violation of this Chapter or Chapter 5.40 within one year of the first violation. Any violation of any provision of this Chapter which occurs on more than one day shall constitute a separate violation for each day or portion thereof during which such violation occurs.

C. Notwithstanding subsection B of this section, the \$1,500, \$3,000, and \$5,000 fines set forth therein shall not apply to: (i) a first time offense of failing to obtain a Certified Property authorization or business tax certificate or pay a fee for either of those; or (ii) violations committed in connection with the transient rental of a commercially operated hotel, motel, bed and breakfast inn, time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code, lodge, inn, camping site, space where camping or remaining overnight on a transient basis is permitted at a campground or recreational vehicle park, or the rental of anything that is not a “transient occupancy unit” as defined in Section 3.12.020.

D. Town staff shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

E. 1. Notwithstanding subsection A of this section, any operator or other person who fails or refuses to register as required in this Chapter, 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 Tax Collector, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor.

2. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due as required by this Chapter to be made is guilty of a misdemeanor.

F. Any transient occupancy unit operated without a Certified Property authorization or without collecting and paying transient occupancy taxes to the Town as required in this Chapter is a public nuisance and may be abated as provided for in [Chapter 8.20](#).

3.12.320 - Registration records.

At or prior to the time of registration, an operator shall maintain a record of the name and address of the transient occupant to whom every transient occupancy unit is let, together with a record of the number of persons who are allowed to occupy the transient occupancy unit. The operator shall retain such records for a period of three (3) years.

3.12.300 - Transfer of ownership - Tax clearance certificate.

A. Pursuant to Revenue and Taxation Code Section 7283.5, and as that section may from time to time be amended, a purchaser, transferee, or other person attempting to obtain ownership of a transient occupancy unit, may request in writing from the Tax Collector the issuance of a tax clearance certificate stating the amount of tax and any accrued penalties and interest due and owing, if any.

B. The Tax Collector shall, within ninety (90) days of the receipt of the written request for a tax clearance certificate, issue the tax clearance certificate, or may conduct an audit of the subject transient occupancy unit. Any such audit must be completed within ninety (90) days after the date the records of the subject transient occupancy unit have been made available to the Tax Collector and a tax clearance certificate issued within thirty (30) days of the completion of the audit.

C. If following an audit, the Tax Collector determines that the current operator's records are insufficient to assess the amount of tax due and owing, the Tax Collector shall, within thirty (30) days of making that determination, notify the prospective purchaser, transferee, or other person that a tax clearance certificate will not be issued.

D. If the Tax Collector does not comply with his/her obligations under this section, the purchaser, transferee, or other person that obtains ownership of the transient occupancy unit shall not be liable for any transient occupancy tax obligation incurred prior to the date of the purchase or transfer of the property.

E. The tax clearance certificate shall state the following:

1. The amount of tax, interest, and penalties then due and owing;
2. The period of time for which the tax clearance certificate is valid; and
3. That the purchaser, transferee, or other person may rely upon the tax clearance certificate as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate.

F. Any purchaser, transferee, or other person who: (i) does not obtain a tax clearance certificate under this section, or (ii) who obtains a tax clearance certificate that indicates that tax is due and owing and fails to withhold, for the benefit of the Town, sufficient funds in

the escrow account for the purchase of the property to satisfy the transient tax liability, shall be held liable for the amount of tax due and owing.

3.12.340 - "Stacking."

It is a violation of this Chapter for any person to knowingly aid or engage in the practice commonly known in the lodging industry as "stacking." "Stacking" occurs when a transient occupant who is the registered occupant of a transient occupancy unit, allows other persons to share occupancy of that unit for any night for which those persons are not registered, with intent to defraud the operator of a transient occupancy unit.

"Stacking" fraudulently deprives the Town of tax revenue to which the Town is entitled. Any transient who allows stacking to take place in the unit for which that person is registered, and any transient who occupies a unit knowing that his/her occupancy has not been paid for, shall be in violation of this Chapter. Any such violation shall be prosecuted as a misdemeanor, or, in the discretion of the prosecuting attorney, may be prosecuted as an infraction.

3.12.350 - Disclosure of ordinance upon sale of property.

Pursuant to Section 1102.6(a) of the California Civil Code, sellers of residential property shall disclose to purchasers of such property the provisions of Chapters [ordinances] 3.12 and 5.40 and shall further disclose to purchasers the residential zones in which transient occupancy is permitted and the zones in which it is prohibited. This disclosure obligation shall be satisfied by providing to each purchaser a "Local Option Real Estate Transfer Disclosure Statement" specified by the Town.

3.12.360 - Violations.

A. A violation of any provision of this Chapter, and/or operating a transient rental unit without the remittance of transient occupancy tax is subject to the general penalty provisions and/or the administrative citation provisions set forth in [Chapter 1.12](#) and [Chapter 8.32](#) of the Municipal Code, respectively, and any other civil or administrative remedy allowed by law.

B. A person committing a second or subsequent violation of any provision of this Chapter, and/or the renting of a transient occupancy unit without the remittance of transient occupancy tax shall be subject to a minimum enforcement charge of twenty-five hundred dollars.

C. Notwithstanding [Chapter 1.12](#), the administrative fine for violation of any provision of this Chapter, the operation of any transient occupancy unit or advertising for transient rentals, without a valid business tax certificate, Certified Property authorization by the Town or the operation of any transient occupancy unit in violation of applicable zoning requirements of the Town shall be one thousand five hundred dollars per day for the first violation, three thousand dollars per day for a second violation, and five thousand dollars for every subsequent violation.

D. The Town may revoke the business tax certificate or Certified Property authorization upon non-compliance by an operator of the requirements for registration and operation of transient occupancy units. No new business tax certificates or Certified Property authorizations shall be issued for a period of three months for the first violation, six months for the second violation, and twelve months following all subsequent violations.

3.12.370 No property rights conferred.

Certified property authorizations shall not be construed as providing property rights or vested interests and entitlements in continued operation of a transient occupancy unit. Certified Property authorizations are a revocable status which expires annually. Certified Property authorizations shall not run with the land.

EXHIBIT "B"

CHAPTER 5.40 – TRANSIENT RENTALS OF RESIDENTIAL UNITS

Sections:

5.40.010 - Purpose of chapter.

This Chapter is intended to provide a procedure to ensure that transient rental use does not create adverse impacts to neighboring properties due to excessive traffic, noise, trash, and

similar issues. Additionally, this Chapter is intended to ensure that the number of occupants within such rental units does not exceed the design capacity of the structure or cause health and safety concerns, and that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions. This is consistent with the General Plan Vision Statement that the Town of Mammoth Lakes is committed to providing the very highest quality of life for our residents and the highest quality of experience for our visitors.

5.40.020 - Permitted use.

Transient use of residential property shall be permitted as allowed by [Title 17](#), Zoning, upon the issuance of a business tax certificate and Certified Property authorization pursuant to Municipal Code Chapters [5.04](#) and [3.12](#). The business tax certificate and Certified Property authorization shall be maintained at all times. Transient uses shall comply with all applicable Codes including the California Building Code, the California Residential Code, and local amendments.

5.40.030 - Definitions.

For the purposes of this section, the following terms shall be defined as follows:

“Certified Property” means a transient occupancy unit that is authorized to conduct transient rentals by the Town of Mammoth Lakes.

“Local 24-hour emergency contact” means a business with a Town of Mammoth Lakes business tax certificate providing those specific services as the business model, or an operator living within sixty miles of the Town. Failure to maintain a business tax certificate as a local 24-hour emergency contact will eliminate the ability to qualify as a local 24-hour emergency contact. The local 24-hour emergency contact shall be personally available by telephone on a twenty-four-hour basis to respond to calls regarding the condition and/or operation of the unit.

"Operator" means the person who is a legal owner of the transient occupancy unit. "Operator" also means a person who has the legal right to possession of the premises occupied by transients. "Operator" also means any person who, through lease, mortgage, contract, license, or similar legal right obtains any right to receive or collect any money as rent for the occupancy

of the transient occupancy unit by transients. "Operator" also means any manager, agent, representative or other similar person acting on the authority of an owner of a transient occupancy unit or on the authority of any person who by reason of lease, mortgage, contract, license or similar legal right to receive or collect rent for the occupancy of the transient occupancy unit by transients, which agent, manager or representative has been authorized to receive or collect rent for the occupancy of the transient occupancy unit by transients.

"Transfer" means the act by virtue of which title of a property is conveyed from one person, business structure, partnership, corporation, non-profit, trust or other entity in the form of sale, money transfer, lease, license, lien, gift, or any other way of disposing of a property or asset.

"Transient rental" Occupation of a transient occupancy unit for a period of 30 days or less.

"Transient occupancy unit" means any place, space or structure, or portion of any place, space or structure, which is or may be occupied, or intended or designed for occupancy by transients for purposes of sleeping, lodging or similar use in conformance with the Town's zoning regulations, and shall include, but not be limited to the following: hotel, hotel-motel, lodge; inn; dude ranch; apartment; apartment unit; condominium; condominium unit; triplex; duplex; single-family residence; cooperative; mobile home; motor home, trailer, dormitory; rooming house; camping site; space where camping or remaining overnight is permitted at a campground, recreational vehicle park; or other similar structure, facility or space. "Transient occupancy unit" shall not include any of the following: any hospital, sanitarium, medical clinic, convalescent home, rest home, owner-occupied time share estate, owner-occupied time share use, home for aged people, foster home or other similar facility operated for the care or treatment of human beings; any asylum, jail, prison, orphanage or other unit or facility in which human beings are detained or housed under legal restraint; housing owned or controlled by any educational institution and used exclusively by students and employees of such educational institutions, and officially recognized or approved by it; any housing operated or used exclusively for religious, charitable or educational purposes by an organization having qualified for exemption from property taxes under the laws of the state of California; any housing owned by a governmental agency and used to house its employees or for governmental purposes; any camp as defined in the Labor Code or other housing furnished by any employer exclusively for housing that employer's employees.

"Residential property" means any single- or multiple-family dwelling units, duplexes, guesthouses, caretaker units, or other dwelling unit or structure located on one (1) or more contiguous lots of record in any of the Zoning Districts in [Title 17](#) which allow residential uses. This does not include condominiums that function as hotels (i.e. condo hotels).

"Visitor expectation guide" means a guide that is published by the Town on an annual basis and adopted by resolution of the Town Council.

5.40.040 - Notification Requirements.

A. Interior Notice. Each transient rental unit shall have a notice posted within the unit in a location clearly marked and accessible to the tenant (e.g. posted on the refrigerator, included within a binder with additional information on the unit, etc.), containing all of the following information:

1. The maximum number of occupants permitted to stay overnight in the unit.
2. The maximum number of vehicles associated with the transient rental allowed to be parked on the property.
3. The location of on-site parking spaces and the parking rules for seasonal snow removal.
4. Notification that an occupant, as a person responsible for an unlawful large party, may be cited and fined for creating a disturbance or for violating other provisions of this Chapter.
5. Notification that trash and refuse shall not be left or stored on the property unless it is deposited in bear resistant containers intended for pickup by the Town's solid waste contractor. Alternatively, trash may be deposited within a dumpster serving the property or at the transfer station for a fee. Trash information should include specific instructions on opening and securing the animal resistant dumpsters.

6. Notification that failure to conform to the parking and occupancy requirements for the transient occupancy unit is a violation of the Town's Municipal Code.
7. The name of the managing agency or agent and a telephone number at which that party may be reached on a twenty-four (24) hour basis.
8. Physical street address of the unit and emergency contact information consisting of 911 and non-emergency contact information for the Mammoth Lakes Fire Protection District and Mammoth Lakes Police Department.
9. Evacuation plan for the unit showing exit routes, exits, and fire extinguisher locations. Evacuation plans may be hand-drawn and do not need to be drawn to scale but should clearly show occupants how to exit the premises in the case of an emergency.
10. The current version of the visitor expectation guide must be posted in the transient occupancy unit in a visible location.
11. Acceptance by an operator of a Certified Property authorization constitutes consent by the operator, and all other operators of that transient occupancy unit, to publication by the Town of Mammoth Lakes of Certified Property information including the Certified Property authorization number, names of all operators, email addresses, and phone numbers, 24-hour emergency contact name, 24-hour emergency contact phone number, number of parking spots, and maximum occupancy for the transient occupancy unit.

5.40.050 - Standards and Conditions of Operation.

Transient uses shall comply with all of the following standards and conditions of operation.

- A. All applicable Codes regarding fire, building and safety, health and safety, noise, and other relevant laws.

B. Information on the permitted occupancy, parking capacity for each unit, and trash disposal requirements shall be stated in the rental information and agreement provided to prospective renters, prior to their occupancy of the unit. The operator shall restrict the parking for the transient rental so that tenants will not exceed the number of parking spaces allocated to the unit.

C. Each operator shall have a local 24-hour emergency contact who is available at all times to respond to questions and issues arising out of the transient occupancy. Failure to respond to calls in a timely and appropriate manner on two (2) occasions shall result in revocation of the Certified Property authorization for the transient occupancy unit and the eligibility as a 24-hour emergency contact. For purposes of this Chapter, responding in a timely and appropriate manner shall mean that a response to an initial call shall be made within one (1) hour of the time the call was made, and within twenty-four (24) hours of the initial call, corrective action shall be commenced to address any violation of this Chapter and Chapter 3.12.

D. Each operator shall supply the name and phone number for the cleaning service to the Town. The cleaning service can be the owner, property management company or other Town of Mammoth Lakes business tax certificate holder providing those specific services within their business model.

E. Operators shall furnish the names and contact information of each vendor or contractor supplying services to a Certified Property as requested by the Town.

F. The number of occupants in any residential unit for transient use shall not exceed the limits set forth in the California Health & Safety Code and the 1997 Uniform Housing Code.

G. Any advertisement, including web advertising, for the transient occupancy unit must include the Certified Property authorization number.

H. All activities shall be in compliance with the Town's Noise Chapter (Municipal Code [Chapter 8.16](#)) and the Town's Solid Waste Chapter (Municipal Code [Chapter 8.12](#)).

I. Occupancy Limitations

1. Single-Family Home, Town Home, Duplex. The maximum number of persons who may occupy the property as transient renters or their overnight guests shall be limited to two (2) persons per bedroom, plus two (2). Lofts that meet California Building Code egress requirements are considered a bedroom for the purposes of this occupancy calculation. The maximum occupancy shall not exceed ten (10) persons in any rental unit unless the unit is approved by the Town of Mammoth Lakes Tax Collector for such occupancy.

2. Condominiums and All Other Unit Types. The maximum number of persons who may occupy the property as transient renters or their overnight guests shall be limited to two (2) persons per bedroom, plus two (2). Lofts that meet California Building Code egress requirements are considered a bedroom for the purposes of this occupancy calculation. The maximum occupancy shall not exceed ten (10) persons in any Certified Property unless the unit is approved by the Town of Mammoth Lakes Tax Collector for such occupancy.

J. Transient rental units shall not be used for activities that would exceed the maximum permitted number of occupants unless a special event permit is reviewed and approved by the Town.

K. Operators shall distribute the visitor expectation guide to all occupants prior to check in. The visitor expectation guide shall be posted within the transient occupancy unit in a conspicuous place.

5.40.055 - Operational Deficiencies.

When the Town is made aware of the failure to adhere to the standards, conditions, or other requirements of operating a transient occupancy unit, the operator shall be afforded the following process to resolve the issue before any further action is taken at the discretion of the Tax Collector.

A. The operator shall be notified of the violation and will have 30 days to resolve the identified violation, to continue renting without penalty or suspension.

B. If the violations are not corrected in the initial 30 days, the operator will receive a fine, in accordance with the Town's fine schedule for non-compliance.

C. If the violation is not corrected within 45 days of initial notice, the Town shall suspend the Certified Property authorization until the problems are resolved to the satisfaction of the Town. Continued operation after suspension, including advertising for transient rentals, will be subject to administrative citations and other remedies available to the Town.

5.40.060 – Inspection Requirements.

A. Any transient occupancy unit for which a new Certified Property authorization is requested shall be inspected, prior to commencement of the use, by a qualified inspector authorized and approved by the Town to conduct such inspections. The inspection shall verify compliance with all standards and conditions of operation including signage requirements as well as applicable safety requirements. The qualified inspector shall submit a completed inspection form to the Town showing that the unit has passed inspection and is approved for rental. The actual cost of such inspection shall be paid by the operator directly to the inspector. A unit shall be required to be inspected every four years and prior to the issuance of any new business tax certificate or Certified Property authorization.

B. The Town may require transient occupancy units identified as being operated in violation of this Chapter to be reinspected by a qualified inspector at any time. The cost of the reinspection or expenses incurred to reach compliance shall be paid by the operator.

C. Operators shall complete the transient rental inspection within two (2) months of the submission of applications to the Town indicating the intention to rent the transient occupancy unit on a transient basis. Failure to complete the transient rental inspection within the two (2) month period will result in the revocation of the applications and forfeiting of all application fees paid by the operator.

5.40.070 - Violations.

A violation of any provision of this Chapter, and/or the renting of any transient occupancy unit in a Zoning District that does not allow for such transient rental, or without proper land use approvals, is subject to the general penalty provisions and/or the administrative citation provisions set forth in Chapter 1.12 and Chapter 8.32 of the Municipal Code, respectively, and

any other civil or administrative remedy allowed by law, provided that such violations shall be subject to a fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation, a fine not exceeding three thousand dollars (\$3,000) for a second violation of this Chapter and/or Chapter 3.12 within one year, and a fine not exceeding five thousand dollars (\$5,000) for each additional violation of this Chapter or Chapter 3.12 within one year of the first violation.

Notwithstanding Chapter 1.12 and subsection A of this section, the administrative fine for the operation of any transient occupancy unit without a valid business tax certificate shall be five hundred dollars for the first violation.

Notwithstanding subsection A of this section, the \$1,500, \$3,000, and \$5,000 fines set forth therein shall not apply to: (i) a first time offense of failing to obtain a Certified Property authorization or business tax certificate or pay a fee for either of those; or (ii) violations committed in connection with the transient rental of a commercially operated hotel, motel, bed and breakfast inn, time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code, lodge, inn, camping site, space where camping or remaining overnight on a transient basis is permitted at a campground or recreational vehicle park, or the rental of anything that is not a “transient occupancy unit” as defined in Section 5.40.030.

Town staff shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

Non-compliance by an operator of the requirements for registration and operation of transient rental units may result in the revocation of the business tax certificate authorizing the use, and no new business tax certificate may be issued to the same licensee for operation of a transient occupancy facility for a period of twelve months following such revocation.

A person committing a second or subsequent violation of any provision of this Chapter, including the rental of a transient occupancy unit without a business tax certificate or Certified Property authorization, and/or the renting of any property in a Zoning District that does not allow for such transient rental, or without proper land use approvals shall be subject to a minimum enforcement charge of \$2,500 dollars.

5.40.080 – Remedies for Violations.

A. If during a financial audit or other means of assessing rental activity the Tax Collector determines that the nonpayment of any remittance due is based on fraud the operator shall be subject to an administrative fine of one thousand dollars and revocation of the associated business tax certificate and all Certified Property authorizations. No new business tax certificates or Certified Property authorizations shall be issued to the operator or for the transient occupancy unit for a period of three months for the first violation, six months for the second violation, and twelve months following all subsequent violations.

B. An operator found to have undertaken, contracted for, or allowed unpermitted improvements, alterations, or repairs in a transient occupancy unit for which a permit or permits were required by applicable Codes, laws and/or ordinances shall be subject to an administrative fine of one thousand dollars and revocation of the associated business tax certificate and all Certified Property authorizations. No new business tax certificates or Certified Property authorizations shall be issued to the operator or for the transient occupancy unit for a period of three months for the first violation, six months for the second violation, and twelve months following all subsequent violations.

C. An operator found to have violated this Chapter in connection with the registration (or lack thereof) or operation of a transient occupancy unit shall be subject to an administrative fine of one thousand dollars and revocation of the associated business tax certificate and all Certified Property authorizations. No new business tax certificates or Certified Property authorizations shall be issued to the operator or for the transient occupancy unit for a period of three months for the first violation, six months for the second violation, and twelve months following all subsequent violations.