

TOWN COUNCIL STAFF REPORT

Title: Short-term rental program review and consideration of an urgency ordinance for temporary moratorium on the issuance of transient occupancy registration certificates

Meeting Date: October 18, 2023

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RECOMMENDATION:

Staff is requesting Town Council comment and direction on proposed short-term rental program updates and consider whether to adopt urgency ordinance 2023-xx establishing 45-day moratorium on the issuance of new short-term rental registration certificates pursuant to Town of Mammoth Lakes Municipal Code Title 5

BACKGROUND:

Short Term Rental History

Since the Town was incorporated in 1984, transient rentals have been allowed in a number of different zoning districts within the Town including some residential districts. Transient rentals within residential districts (short term rentals) are common across the nation and occupancy of those rentals has increased as the market for online reservation platforms such as VRBO and AirBNB has expanded. Mammoth Lakes, like other municipalities, has dealt with a number of different issues associated with short term rentals in residential areas including noise, parking, trash, etc. In response to community interest and concern about neighborhood impacts of short-term rentals, the Town Council adopted an ordinance in 2015 addressing short-term rental (STR) regulations which included standards to deal with issues that were affecting the community including noise, trash, parking, and occupant safety ("Quality of Life Ordinance"). The Town has been implementing the Quality of Life Ordinance for seven years now and there is an opportunity to reflect on the effectiveness and need for adjustments. The fact the Town has undertaken the process of developing these ordinances put us well ahead of the curve in addressing impacts of this new lodging solution. Many Municipalities addressing these issues today are grappling with concerns we addressed through the Quality of Life Ordinance.

The one element of that our previous ordinance did not address was the impact of STRs on the availability of housing for our local residents and workforce. One impact of these businesses appears to be, at least in part, the significant increase in the sales price of our affordable housing units as they can be utilized as lucrative business income in our resort community. Our limited

availability of these units along with their direct impact on affordability and availability of housing units is the most pressing issue we seek to address.

Workforce Housing Shortage

The Town has been experiencing a shortage of housing affordable for our workforce for a number of years. In 2017, the Town completed a Workforce Housing Needs Assessment which estimated a need for 595 additional workforce housing units between 2017-2022 (5 affordable units converted from existing market rate units and 221 new market rate units have been provided since that time). While affordable housing production over the past five years has been a challenge, the Town has a number of upcoming projects that are anticipated to generate 256 units over the next 2-3 years. This includes:

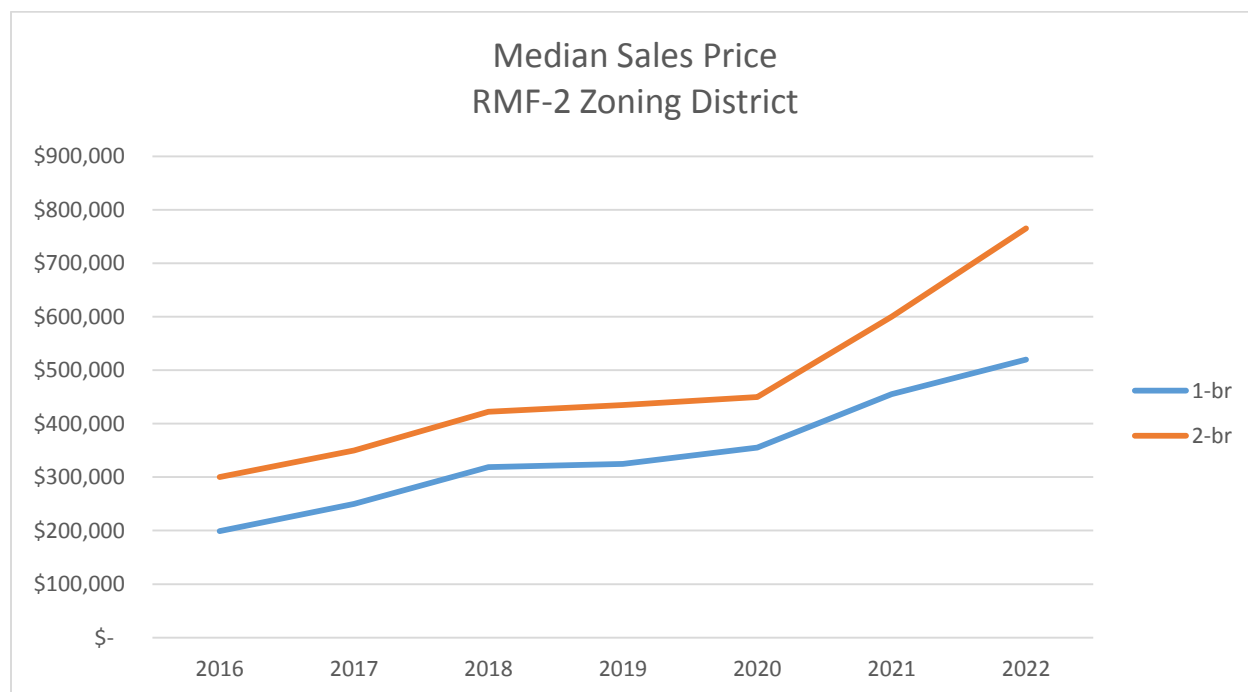
- Parcel Phase 1 – 81 units (80 affordable, 1 manager unit – under construction)
- Parcel Phase 2 – 148 units (146 affordable, 2 manager units – construction is pending funding)
- Innsbruck Lodge HomeKey Project (15 affordable, 1 manager unit – remodel under way)
- 60 Joaquin (4 for-sale affordable units – under construction)
- Access Apartments (11 affordable units – Project is not fully funded)
- The Town has acquired a small parcel and will be looking at 4-6 new units.

This list does not include units provided by private entities that are not deed restricted like the recent purchase of the Sierra Lodge by Mammoth Mountain Ski Area (36 units that will house up to 72 employees) or the Mammoth Hospital's recent purchase of 20 apartments to use for their employees. The Town also purchased 5 employee housing units over the past few years, for a total of 7 units. Under the Town's "Bridge Program" 6 market rate units have been purchased and all but one has been sold to households with incomes less than the 150% AMI level. The program requires a subsidy of approximately \$110,000 to \$150,000 per unit. Recent interest rate increases also make it difficult for households in these "missing middle" income ranges to purchase units.

While the Town and partners are working diligently to provide workforce housing for our community, anecdotal evidence suggests that the COVID-19 pandemic has exacerbated the housing shortage. This has occurred as people have moved to Mammoth Lakes from elsewhere, real estate prices have increased, and some housing units previously used as long-term rentals were sold to buyers intending to occupy them or to utilize them for short-term rentals (or a combination of use). The precise relationship between the prevalence of short-term rental properties and the lack of housing units available for long-term rental or purchase by residents is not known. Yet, anecdotally we understand that the ability to short-term rent is a factor that makes Mammoth Lakes an even more attractive real estate market for vacation home buyers. The Town has contracted with BAE Urban Economics to analyze these relationships as well as other factors related to STRs. The same firm has been retained by Mono County to conduct a similar study.

Rental units continue to be in low supply as well, with the annual apartment survey showing 1% or less vacancy factor. The lack of affordable workforce housing continues to be one of the top concerns expressed by local businesses in Chamber of Commerce surveys.

A snapshot of housing sales data from 2017 through 2022 for one- and two- bedroom condo units in the RMF 2 zoning district show continued strong price increases, while the number of sales within that zone has stayed relatively consistent (average of 61 one-bedroom and 91 two-bedroom sales /year). The number of new units constructed was also limited during this time period, with only 16 new units constructed in the RMF-2 zone. The number of units in this zoning district is 3,642, with 1,898 (or 52%) having a short-term rental tax certificate.



The median sales price of these units has moved out of the price range for moderate income households to purchase. The following table and chart demonstrate what a three-person household at various AMI levels could afford to pay for a 2-bedroom condo based on a consistent set of assumptions and spending 35% of their gross income on housing costs (excluding utilities). The analysis provides some base data that suggests the transition of existing housing stock to meet workforce housing needs is challenging due to the currently unaffordable prices for moderate income households.

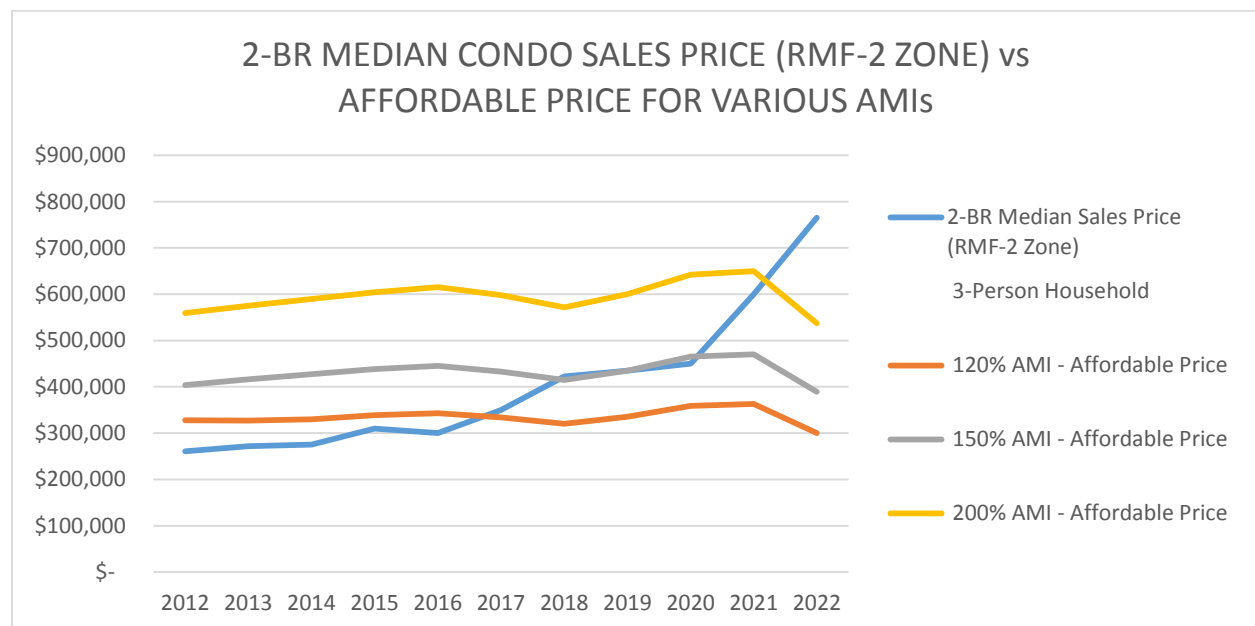
As demonstrated in the chart below, the point when a household at the various AMI levels could no longer afford the median priced 2-bedroom condo in the RMF-2 zone is as follows:

120% AMI: Mid-2016

150% AMI: Mid-2020

200% AMI: Mid-2021

Year	2-BR Med Sales Price (RMF-2)	# of Sales	Avg Yrly Int Rate	3 Person Household					
				120% AMI	120% AP	150% AMI	150% AP	200% AMI	200% AP
2012	\$261,000	57	3.66%	\$84,550	\$328,000	\$100,700	\$403,500	\$134,300	\$559,000
2013	\$272,000	79	3.98%	\$85,950	\$327,000	\$105,700	\$416,000	\$140,950	\$575,000
2014	\$275,000	47	4.17%	\$87,700	\$329,500	\$109,600	\$427,000	\$146,150	\$590,000
2015	\$310,000	53	3.85%	\$87,700	\$338,500	\$109,600	\$438,000	\$146,150	\$604,000
2016	\$300,000	61	3.65%	\$87,700	\$343,000	\$109,600	\$445,000	\$146,150	\$615,000
2017	\$350,000	101	3.99%	\$87,700	\$334,000	\$109,600	\$433,000	\$146,150	\$598,000
2018	\$422,500	94	4.54%	\$87,700	\$320,000	\$109,600	\$415,000	\$146,150	\$572,000
2019	\$435,000	100	3.94%	\$87,700	\$335,000	\$109,600	\$435,000	\$146,150	\$600,000
2020	\$450,100	105	3.11%	\$87,700	\$359,000	\$109,600	\$465,000	\$146,150	\$642,000
2021	\$600,000	91	2.96%	\$87,700	\$363,000	\$109,600	\$470,000	\$146,150	\$650,000
2022	\$765,000	84	5.34%	\$87,700	\$300,000	\$109,600	\$389,000	\$146,150	\$537,000



Assumptions: Annual income at 120%, 150%, and 200% of AMI, 10% Downpayment, \$400 HOA, Property Tax at 1.5% of purchase price, Property Insurance at 0.35% of purchase price, Private Mortgage Insurance at 1% of purchase price, and Average Interest Rate for that year

The following chart shows the 2023 income limits for Mono County and our local limits calculated at the 150% and 200% AMI level using the State assigned AMI as the starting point.

2023 STATE INCOME LIMITS		https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/income-limits-2023.pdf						
	Household Size							
	1	2	3	4	5	6	7	8
Acutely-Low (≤ 15% AMI)	\$10,050	\$11,500	\$12,900	\$14,350	\$15,500	\$16,650	\$17,800	\$18,950
Extremely-Low (16%-30% AMI)	\$17,850	\$20,400	\$24,860	\$30,000	\$35,140	\$40,280	\$45,420	\$50,560
Very-Low (31%-50% AMI)	\$29,750	\$34,000	\$38,250	\$42,500	\$45,900	\$49,300	\$52,700	\$56,100
Low (51%-80% AMI)	\$47,600	\$54,400	\$61,200	\$68,000	\$73,450	\$78,900	\$84,350	\$89,800
Median (81%-100% AMI)	\$67,050	\$76,650	\$76,200	\$95,800	\$103,450	\$111,150	\$118,800	\$126,450
Moderate (101%-120% AMI)	\$80,450	\$91,950	\$103,450	\$114,950	\$124,150	\$133,350	\$142,550	\$151,750
LOCAL INCOME LIMITS	The state does not calculate income limits for AMI groups > 120% AMI; however, the same methodology used by the State for the income limit calculations was used to determine the higher limits							
	Household Size							
	1	2	3	4	5	6	7	8
150% AMI	\$100,600	\$114,950	\$129,350	\$143,700	\$155,200	\$166,700	\$178,200	\$189,700
200% AMI	\$134,100	\$153,300	\$172,450	\$191,600	\$206,950	\$222,250	\$237,600	\$252,900

Current Work Programs

The Town employs a staff of 4 people in the Revenue team that is responsible for administration of the business tax certificates, Transient Occupancy Tax Certificates, tax collections, and enforcement of the Municipal Code. This team has been very effective with electronic tools to track advertisements and identify illegal operations. This effort has been beneficial in eliminating violations of the zoning restrictions and under reported revenue. This team has also made recommendations that will address some common problems with short-term rental businesses. The main update is the development of a new registration process called Certified Properties. The main concept of certified properties is to establish a relationship with the property owner, who is ultimately responsible for the activity that occurs in the unit.

The proposed process will flip the current structure of BTC / TOT certificate and start with the process of certifying the property for rental prior to issuing a BTC or allowing the property to be marketed for business. Once a property is certified, a number is issued that can be provided to every BTC holder who would like to market the property for rental activity. The key difference between certified properties and the previous TOT certificate is the fact the property owner must

work directly with the Town, establishing a relationship and understanding of responsibility for all rental activity conducted within their unit. While this is the case currently from a legal perspective, establishing this contact and dialogue will be helpful to understand they are engaged in business and there are specific requirements that must be met. The goal of this approach is to address some of the shortcomings of our current structure, namely the establishment of responsibility listed above, and some key elements addressed below. Staff would like input from the Town Council on the elements listed below as they are recommendations and/or on how the system can be improved and provide additional requirements for the short-term rental business.

Certified property attributes - Owners - Recommendations:

- All properties require inspections, safety and compliance, every four years - Currently if someone wants to rent a property, they must secure an inspection. However, when this was implemented originally, many existing units were grandfathered into the program and have not been inspected. There is no provision requiring follow-up inspections in our current process, but this is recommended. Inspections include basic safety items such fire extinguishers, smoke detectors, and required postings, occupancy limits etc.
- Properties must remain in good standing – If the Town receives complaints about the operation of the property, including activity of visitors to the property, and those items are not effectively addressed, the property may be ineligible for rental until corrected.
- Properties information will be updated and published on an interactive map. – The Town has developed a digital map that contains information on each legal rental unit in Town.
- Property owners would be required to pay an annual fee - the fee collected would cover the Rentalscape annual monitoring contract which is currently charged to the Town on a per unit basis. Failure to pay the annual fee would make the property ineligible for rental until corrected.
- Verified Emergency Contact and Cleaning Service – Owner required to provide a 24- hour contact and BTC for cleaning company, if not the owner. Both may be the property management company if the unit is managed. This information will be published on the interactive map.
- Violations of the Municipal Code may result in revocation of certificate – In the event a violation of the Town municipal code or illegal activity occurs at the rental property, the Town reserves the right to suspend or revoke the certificate. Violations include but are not limited to, health and safety, fire, building, noise, parking, occupancy, trash and advertising without the certificate number present.
- Word of Mouth Conformity – In making the owners more aware and accountable of the requirements to rent transiently, compliance should improve as owners who are held accountable will self-enforce other owners in their complex. This will also boost education of the transient rental program and combat misunderstanding or misinformation that sometimes exists in the community.

- Enhanced Enforcement – Certifying the properties first allows for more precise enforcement for violations as we have direct contact with the responsible party (owner). Ultimately any violations are tied to the property rather than the license to conduct business (BTC). 3 Certified property attributes - Operators
- Certificate number must be displayed in all marketing ads – This will assist Town staff in identification of legal and illegal properties.
- Monthly Tax returns must include gross receipts and statical data per certified unit – Currently tax returns indicate the gross receipts and tax for the entire business, which can be several to hundreds of properties. We propose a new online form where an operator can enter details on each property. # Nights rented, gross receipts, owner nights, each month. The property management company would still only provide one tax return, but the attachment includes details listed above for each unit.
- Responsible Accounting – Requiring operators to remit revenues and statistical data by property will create an additional layer of accountability and property management. Accuracy for revenue reporting as well as maintaining detailed property unit lists will improve. Statistical data will assist in staff analysis of our overall transient rental business.
- Property Tracking – If property was represented by a rental agency and is no longer, the operator must notify the Town of this change. Town will verify they are with another operator or no longer in business. Properties advertising or renting without an identified BTC to remit TOT may have their certificates suspended or revoked.
- Streamlined Transitions – If an owner chooses to transition from one property management agency to another the change doesn't require recertification.

Staff believes the implementation of this new process will support an improved business environment within the short-term rental businesses. It will provide more accountability for knowledge of rules and regulations governing their businesses. These changes should also improve the visitor experience as rules governing the safety of the rental units are controlled more tightly within the new process. Finally, the interactive map and transparency of our short-term rental unit inventory in town will assist in identifying illegal or detrimental activity. Neighborhood concerns about the activities at a specific property can be shared with the owner, management company and the Town for resolution. If corrective action is not taken, owners will run the risk of losing their certified status and the ability to rent the unit.

The Certified Properties program is focused on ensuring STR operators/owners are held accountable for their operations. This includes compliance with Town regulations, quality of life ordinance, and payment of fees and taxes.

Town Council Direction

All of these items have generated comments from Councilmembers about the need to protect and preserve workforce housing for our community while also balancing the desire to provide accommodation for our growing tourism base. While staff have been involved and engaged in STR discussions, we have not analyzed or considered any ways to limit STR's within the Town. In response to the requests from Council, staff has provided this item to allow the Council to consider options for limiting STR's including an option to adopt an ordinance approving a temporary moratorium limiting the issuance of new TOT certificates, if the Council feels that this situation requires such action to allow for more detailed analysis and recommendations.

ANALYSIS:

If the Town Council feels that this issue is a critical issue and new certificates for STR's within a portion of Town should be paused to allow staff time to study the issue and bring options forward for Council consideration, this will require adopting an urgency ordinance to temporarily establish a moratorium on new transient occupancy registration certificates for STRs. The urgency ordinance, if approved, will temporarily limit approval of any new transient occupancy certificate applications and will provide the Town with time to complete an analysis and bring back options for regulating STR's. The potential to limit the issuance of new TOT Certificates for STRs has been raised off and on over the past few years. The discussion has generally been in the context of either quality of life issues as discussed above or in the context of providing affordable workforce housing. If a temporary moratorium is put in place, the primary analysis will focus on the housing related question.

Temporary moratoriums are often seen as an extreme step in pausing operations in order to allow time to analyze and develop regulations while also avoiding a "rush to the counter" scenario. When the Town Council started discussing the possibility of regulating STR's in 2022, staff saw a marked increase in TOT applications above what we normally see. Processing a potential influx of applications could detract from staff's ability to review and revise the program and such an influx could run counter to Town Council's ultimate direction for the STR program.

If the Town Council were to pursue a temporary moratorium staff suggests that the moratorium be limited in scope and not include bed and breakfast, hotel, or motel uses as defined by Zoning Code Section 17.144.050:

Bed and Breakfast. A residential structure that is in residential use with one or more bedrooms rented for overnight lodging and where meals may be provided.

Hotels and Motels. Establishments providing overnight lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This use classification includes motor lodges, motels, and tourist courts, but does not include rooming houses, boarding houses, private residential clubs, transient rentals of single-family homes or condominiums, or bed and breakfast establishments within a single-unit residence, which are separately defined and regulated.

Additionally, staff suggests that STR's that are located outside of residential zones not be included in the moratorium. This would result in the moratorium only affecting STR's within the Residential Multi Family-2 (RMF-2) District. Please see Attachment B Zoning Map. If the Council is supportive, the moratorium would not include any short-term rentals within any other zoning district including Resort, North Village Specific Plan, Clearwater Specific Plan, Commercial Zoning Districts (Downtown, Old Mammoth Road, Mixed Lodging Residential), and Public/Quasi Public.

A limited moratorium would only apply to new TOT Certificate applications. The moratorium would not affect renewals, and applications in process with the Town as of the date of the ordinance.

Next Steps – STR Work Program

If the Town Council adopts an ordinance to impose a temporary moratorium limiting the issuance of new TOT Certificates, staff will need to implement a specific work program to review and study the Town's current short-term rental program. The work program may include items such as

Conduct a study on STR impacts in Town of Mammoth Lakes

The Town has contracted with BAE Urban Economics (BAE) to conduct a study of impacts of STR activities in Town and Mono County as contracted with the same firm to conduct a similar study. The Study will cover the following general areas:

- Statistical data on number of units available and in the program.
- Number of certificates and revenue.
- Housing-related building permits.
- Enforcement activities including all complaint details.
- Town Housing program elements and update reports
- Housing needs assessment data
- Tourism industry related data.
- List of key stakeholders and best contact methods.

Establishment of advisory committee

Staff is recommending the commissioning of an advisory committee made up of a representative of key stakeholders in the community.

- Business representative
- STR Property Managers representative
- Lodging Association representative
- Restaurant Association representative
- STR Independent Operator
- Contractor / Builder representative
- Town Staff – Revenue Team representative
- Town Council Members (2 representatives)
- Other Governmental (i.e., School District or Hospital)

Analysis of STR Landscape and policies in Similar jurisdictions

- Summary of research regarding the relationship between short-term rental markets and workforce housing in similar jurisdictions
- Summary of regulatory frameworks utilized in similar jurisdictions to manage the number of short-term rentals.
- Summary of economic impacts and benefits of short-term rentals
- Development of a set of regulations, if any, for consideration by the Town Council.

The work program would focus on gathering data related to STR's and working to develop potential updates to the STR program to help address the housing shortages and any other identified economic factors. Staff has prepared a draft urgency ordinance included as Attachment 1 which addresses the need to alleviate and abate the public safety, health, and welfare issues associated with permitting of Short-Term Rentals.

Government Code Section 65858 – Urgency Ordinance

Article XI, Section 7 of the California Constitution and Section 65858(a) of the California Government Code allows the Town to adopt an interim urgency ordinance, in order to protect the public safety, health, and welfare, prohibiting any uses that may be in conflict with a zoning proposal that the Town Council, Planning and Economic Development Commission or the Community and Economic Development Department is considering or studying or intends to study within a reasonable time. Pursuant to Government Code section 65858(b), an urgency ordinance can be adopted by a four-fifths vote of the Council for an initial 45-day period. If adopted, the ordinance becomes effective immediately. Pursuant to Government Code Section 65858(d), the Town Council will issue a written report not later than 10 days prior to the expiration of this ordinance describing the measures taken to alleviate the conditions which led to the adoption of this ordinance. To meet this deadline, staff will present a draft of this report to the Town Council

on or before November 15, 2023, for the Council's consideration and adoption. After notice pursuant to Government Code section 65090 and public hearing, the Council may by a four-fifths vote extend the interim ordinance for up to an additional 10 months and 15 days provided such action is taken prior to the expiration of the initial 45-day period. The Council can later extend the ordinance again for up to an additional 12 months.

As proposed, the urgency ordinance would exempt complete applications that are in process at the Town prior to the adoption of the ordinance, provided that the application meets all requirements of Chapter 5.40 of the Mammoth Lakes Municipal Code.

Findings to support the proposed adoption of the urgency ordinance are included in Attachment 1.

OPTION ANALYSIS:

Option 1 - Staff is requesting Town Council comment and direction on proposed short-term rental program updates and consider whether to adopt urgency ordinance 2023-xx establishing 45-day moratorium on the issuance of new short-term rental registration certificates, outside of the Resort Zone pursuant to Town of Mammoth Lakes Municipal Code Chapter 5.40. The approval of an urgency ordinance requires a 4/5s approval by the Council.

Option 2 – Do not adopt an urgency ordinance establishing 45-day moratorium on the issuance of new short-term rental registration certificates and provide staff with direction on how to move forward if the Council wishes to see additional analysis along with the broader economic analysis by BAE.