

CITY COUNCIL COMMUNICATION FORM

FROM: Kim Weber, Finance Director
Dan Foote, City Attorney

THROUGH: Gary Suiter, City Manager

DATE: July 5, 2022

ITEM: SECOND READING OF ORDINANCE: AN ORDINANCE FOR THE PURPOSE OF SUBMITTING TO A VOTE OF THE ELECTORS OF THE CITY OF STEAMBOAT SPRINGS, COLORADO THE QUESTION WHETHER THE CITY SHOULD IMPOSE A TAX ON SHORT-TERM RENTAL ACCOMODATIONS FOR A PERIOD OF TWENTY (20) YEARS AT A RATE OF 9% AND DEDICATE THE PROCEEDS FOR THE PURPOSE OF INCREASING THE STOCK OF AFFORDABLE AND ATTAINABLE HOUSING BY PROVIDING INCENTIVES, CONTRIBUTIONS, AND FUNDING INFRASTRUCTURE ASSOCIATED WITH ADDITIONAL HOUSING, INCLUDING, WITHOUT LIMITATION, TRANSPORTATION; SETTING A HEARING DATE; AND PROVIDING AN EFFECTIVE DATE

_____	DIRECTION
_____	INFORMATION
X _____	ORDINANCE
_____	MOTION
_____	RESOLUTION
_____	PROCLAMATION

I. REQUEST/ISSUE & BACKGROUND INFORMATION:

Addressing Short-Term Rentals is one of City Council's adopted priority goals for 2022-2023 discussed and adopted in December and January:

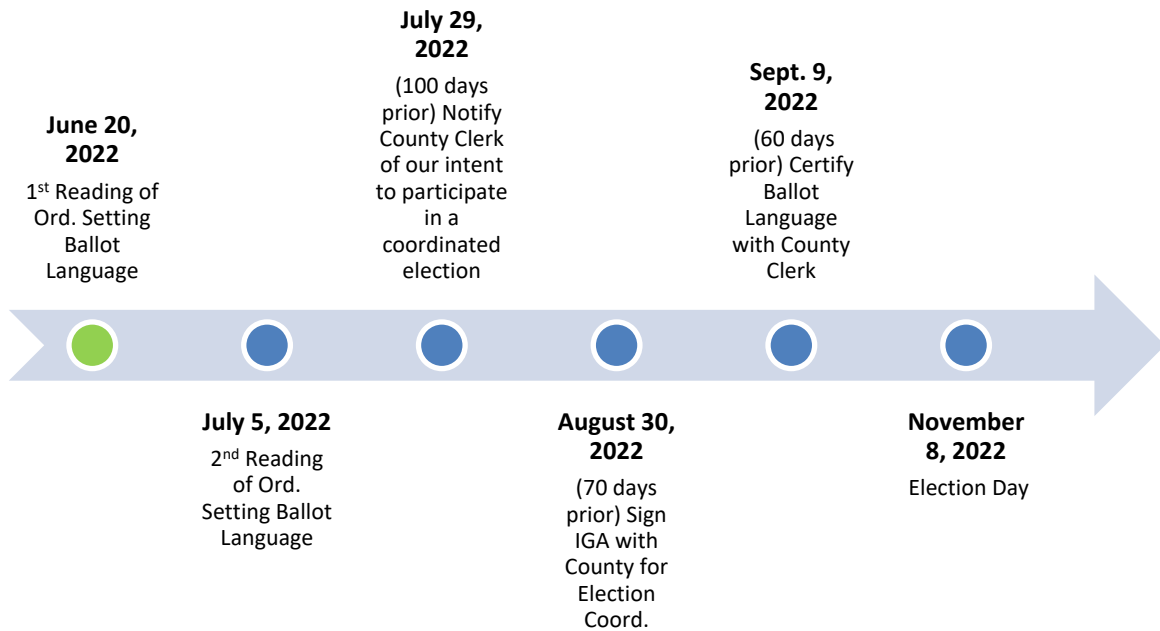
Short-Term Rentals – Address the city's short-term rental issues through:

- *Adoption of regulatory policies (possibly zoning), enforcement rules, licensing procedures, and establishment of a fee structure.*
- *Evaluating the possibility of a November 2022 ballot question for a short-term rental excise tax or a vacancy tax.*

Here is the proposal:

- What:** 9% Excise Tax on STR transactions <30-days
- Who:** Properties subject to the new Short-Term Rental License (non-hotel type accommodations)
- Where:** Properties located within Steamboat Springs city limits
- When:** Proposed effective date of 1/1/2023 – subject to voter approval November 2022
- Restrictions:** Revenue restricted for increasing the stock of affordable and attainable housing by providing incentives, contributions and funding infrastructure associated with additional housing, including, without limitation, transportation (see ballot language).
- Sunset:** 20-year sunset

Timeline:



City Council Worksessions:

- During the February 8, 2022, worksession, staff presented several taxing and fee options for Council to consider in order to meet their fiscal sustainability goal. City Council narrowed the options down to three, including short-term rental (STR) tax, short-term rental (STR) fee, and repurposing the existing accommodation’s tax (“2A”). Council scheduled a

worksession to discuss a STR tax and a STR fee and directed staff to delay discussions on repurposing the accommodation's tax because the current ballot language remains in place through 2023.

- On March 8, 2022, staff presented information regarding STR taxes and fees along with information on incentives for property owners to convert short-term rentals into long-term rentals. City Council was supportive of moving forward with a regulatory STR licensing fee intended to cover the costs of administration and enforcement of the program. This will be implemented after City Council finalizes the required STR ordinances. City Council was also supportive of moving forward with a STR tax and scheduled a worksession on April 12, 2022, to discuss the proposed taxing rate if the revenue from the tax would be for a specific purpose or for general municipal purposes.
- On April 12, 2022, Council discussed various options, and then agreed to move forward with a STR tax on the November ballot. City Council directed staff to schedule a worksession in May and asked the City Attorney to provide sample ballot language with several options.
- On May 10, 2022, City Council provided direction on the following four questions:
 1. What are the goals of the STR tax?
 - Generate Revenue for attainable housing
 2. What rate do you want to propose to the voters?
 - Staff to bring back revenue options for 7-10% tax (generate approximately \$10M/year in revenue)
 3. What are the revenue restrictions?
 - Attainable Housing
 - Transportation related to attainable housing
 - Contributions related to attainable housing
 - Infrastructure related to attainable housing or additional housing
 - Long-term rental incentives
 4. Do you want a sunset date on the tax?
 - Majority of Council – 20-year sunset

First Reading of Ordinance (June 20, 2022):

City Council approved first reading of Ordinance with amendments. See Attachment #2 for red-line changes.

Staff suggests clarifying the scope of the transportation use of the STR tax funds, if the tax is approved. The current language specifies that transportation infrastructure is an approved use. This language might be read to be limited to

roads, rail, utilities, and other similar capital facilities, which might preclude the use of STR tax funds for the purchase of rolling stock, such as busses.

If Council prefers a broader interpretation of the transportation uses, staff would recommend adding the following after the reference to transportation, "EQUIPMENT AND CAPITAL FACILITIES". No changes are needed if Council prefers the narrower interpretation.

Finally, staff notes that the proposed language would likely not support use of STR tax revenues for maintenance or operational purposes.

Second Reading of Ordinance:

The Ordinance includes ballot language that proposes an 9% tax on STRs. The tax revenue listed in the ballot language is at the high end of the potential collections at \$14.3M. However, the anticipated revenue for 2023 is closer to \$11.7M. See Attachment #1 for tax revenue scenarios.

II. SUMMARY AND ALTERNATIVES:

- Alternative 1 – Approve Ordinance as written
- Alternative 2 – Approve Ordinance with amendments
- Alternative 3 – Table Ordinance to a specific date
- Alternative 4 – Table Ordinance indefinitely

III. STAFF RECOMMENDATION:

None noted.

IV. FISCAL IMPACT:

Based on available sales tax reporting, short-term rental gross sales for 2022 are estimated to be approximately \$144,544,024.

Here are three revenue scenarios for 2023 tax collections based on 9% STR tax:

Scenario 1:

- Gross STR revenue decreases by 10% from 2022
- 9% STR Tax = \$11,708,066

Scenario 2:

- Gross STR revenue flat or consistent with 2022
- 9% STR Tax = \$13,008,962

Scenario 3:

- Gross STR revenue increased by 10% from 2022

- 9% STR Tax = \$14,309,858

See Attachment #1 for more detail.

V. LEGAL ISSUES:

Tax increases must be approved by the voters. The Taxpayers Bill of Rights requires that ballot questions approving a tax increase include an estimate of the first year revenues if the tax is passed. There are two consequences if the revenues exceed the estimate. First, the excess revenue must be refunded. Second, the tax rate in future years must be reduced in proportion to the excess revenues.

In order to avoid an excess revenue situation, staff used the most optimistic revenue scenario to estimate first year revenues. Nevertheless, the possibility remains that if the tax is approved, first year revenues could exceed the estimate. The only certain way to avoid a refund and rate reduction in this situation is to submit a second ballot question for the voters to authorize the City to retain the excess revenue and maintain the original tax rate.

One potential method to avoid the second consequence, i.e. the reduction in the tax rate, would be to include in the ballot question the following clause, "AND MAY ADJUST THE RATE OF TAX FROM TIME TO TIME SO LONG AS IT DOES NOT EXCEED 9%".

Staff requests direction as to whether Council wishes to revise the ballot question to include this language.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None noted.

VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:

This is consistent with one of City Council's priority goals for 2022-2023 that states the Council will evaluate the possibility of a November 2022 ballot question for a short-term rental excise tax or a vacancy tax.

ATTACHMENTS:

Attachment 1 - STR Tax Estimates

Attachment 2 - Red-Lined Ordinance from 1st Reading