

# CITY COUNCIL COMMUNICATION FORM

**FROM:** Rebecca Bessey, AICP, Planning & Community Development Director  
Dan Foote, City Attorney

**THROUGH:** Gary Suiter, City Manager

**DATE:** May 17, 2022

**ITEM:** FIRST READING OF ORDINANCE: An ordinance adding a new Article IX to Chapter 12 of the Steamboat Springs Revised Municipal Code Relating to licensing of Short-Term Rentals; providing for severability; repealing all conflicting ordinances; providing an effective date; and setting a hearing date.

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\_\_\_\_\_ DIRECTION  
\_\_\_\_\_ INFORMATION  
 ORDINANCE  
\_\_\_\_\_ MOTION  
\_\_\_\_\_ RESOLUTION  
\_\_\_\_\_ PROCLAMATION

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## **I. REQUEST/ISSUE & BACKGROUND INFORMATION:**

The City's proposed short-term rental regulations are in three parts: a CDC text amendment establishing the Short-Term Rental Overlay Zone; a CDC Zoning Map Amendment adding the Overlay Zone to the City's Official Zoning Map; and a licensing ordinance.

### **Purpose of the Licensing Ordinance:**

The licensing ordinance has four purposes:

1. **Create a procedure to enforce the land use restrictions, including license caps, set forth in the Overlay Zone.** License applications will be reviewed to determine which Overlay Zone the property is in. If it is in the Unrestricted (Green) Zone, then the license will be issued if the property and application comply with the various operational and submittal requirements described below.

If the property is located in a Restricted (Yellow) Zone, staff will determine whether the property is registered as a legal nonconforming use. Whether a property can be registered will depend on the use of the property prior to the effective date of the ordinance and also whether the City Council chooses to extend legal nonconforming use status to existing short-term rental properties in the Restricted (Yellow) and Prohibited (Red) Zones. If the property is registered as a legal nonconforming short-term rental use or is permitted as a Vacation Home Rental, a Restricted STR License will be issued without regard to the license caps applicable to the various Restricted (Yellow) Subzones.

If the property is not registered as a legal nonconforming short-term rental use or permitted as a Vacation Home Rental, the license will be issued only if there are licenses available per the license cap established in the relevant Restricted (Yellow) Subzone. In most if not all Subzones, the license cap allocation will initially be taken up or even exceeded by properties that are registered as legal nonconforming uses or are permitted as a Vacation Home Rental.

If the property is located in the Prohibited (Red) Zone, a Restricted License can be issued only if the property is registered as a legal nonconforming short-term rental use or is permitted as a Vacation Home Rental.

2. **Establish operational requirements for short-term rental and hosted short-term rental uses.** The operational requirements include parking, occupancy, local responsible party, safety, outdoor sleeping, and advertising requirements. In addition, licensees are required to provide information to their guests regarding the operational requirements and compliance with other City codes.
3. **Establish a licensing fee to defray the costs of enforcement.** The fee will be established by the City Manager on the basis of the City's estimate of the costs incurred by the City to review license applications, contract with third-party vendors to monitor short-term rental activity, hire staff to investigate complaints, and pay the costs of enforcement action.
4. **Establish an enforcement process.** Violations of short-term rental regulations or other City Codes can result in two types of enforcement action. The persons directly responsible for violations of noise, trash, parking, etc. restrictions can be cited to the Municipal Court, which may result in a fine.

The licensee can be subject to fines or suspension or revocation of the license. The City will appoint a hearings officer to preside over hearings to determine whether a licensee should be fined or have their license

suspended or revoked. The licensing ordinance proposes the following guidelines to determine what type of remedial sanction is appropriate:

- For a first offense in a two-year period: warning, imposition of a fine, or suspension for a period of fourteen (14) to sixty (60) days.
- For a second offense in a two-year period: suspension for a period of thirty (30) days to ninety (90) days.
- For a third offense in a two-year period: suspension for a period of sixty (60) days to one hundred and eighty (180) days.
- For a third offense in a one-year period: recommendation of revocation of the license.
- For operating during a suspension, false statements in a license or renewal application, or for any violation that would be a basis to deny a license: recommendation of revocation of the license.

It is important to note that these are guidelines, and that the hearings officer will have authority to deviate from the guidelines. The hearings officer will have authority to suspend licenses but not to revoke a license. If the hearings officer determines that revocation is appropriate, the matter will be referred to City Council for a decision.

#### **License Transfers:**

Licenses that are issued to property owners whose properties are registered as legal nonconforming short-term rental uses or are permitted Vacation Home Rental uses will terminate on a transfer of the property. However, the new owner will be issued a new license even if the property is located in a Restricted (Yellow) or Prohibited (Red) Zone unless the license is revoked, the licensee allows the license to expire, the nonconforming use is abandoned by non-use, or the dwelling unit is destroyed by fire or other casualty.

Licenses that are issued to property owners whose properties are not registered as legal nonconforming short-term uses or are not permitted as Vacation Home Rentals will terminate on transfer. The new owner will be permitted to obtain a new license in the Restricted (Yellow) Zone only if a license is available through the cap waiting list. The new owner will not be permitted to obtain a new license in the Prohibited (Red) Zone.

There are exceptions to the transfer rules. Generally, transfers that occur due to death, divorce, court action, or between the owner and a business entity owned by the owner would not require a new license to be issued.

#### **Impact of Licensing:**

The proposed ordinance is not expected to result in an immediate reduction in the number of properties operating short-term rentals. Instead, it is expected that there will be a gradual process of attrition resulting from enforcement

action or abandonment of short-term rental uses.

The immediate impact of the licensing ordinance is expected to be improved compliance by licensees with the operating requirements and a reduced negative impact to neighborhood character and neighboring property owners. The licensing ordinance will accomplish this goal by generating revenue to fund enforcement resources, including full time Short-Term Rental Compliance Officer(s), and creating a graduated toolkit of remedial sanctions to incentivize compliance.

The current code establishes a three strikes policy for revocation of Vacation Home Rental permits and no procedure at all for the suspension or revocation of existing short-term rental uses. This “all or nothing” approach has not been effective and is being replaced by a more graduated approach that authorizes license suspensions for a first offense by a licensee. The graduated approach retains the recommendation of revocation after three offenses in one year but allows the City to act more quickly in the appropriate case.

**Implementation:**

Staff is not currently prepared to receive applications for short-term rental licenses. Staff intends to process short-term rental license applications through the CityView platform. CityView representatives indicate that they expect to be able to configure the software to receive and process short-term rental applications by the end of October.

The proposed ordinance would take effect immediately to allow for the enforcement of the operational standards, which would be enforced through the Municipal Court until licenses are issued. Once licenses are issued, violations would be addressed through the procedures for fining licenses or suspending or revoking licenses. As drafted, the ordinance creates a “grace period” through January 1, 2023 to allow property owners to prepare and submit license applications and to allow the City to complete CityView upgrades and receive and review all license applications.

**II. SUMMARY AND ALTERNATIVES:**

City Council may approve as presented, approve with revisions, table, or deny the ordinance. If the STR Overlay Zone and Licensing ordinances are not adopted and effective prior to the expiration of the VHR permit moratorium, the current code will continue to apply.

**III. STAFF RECOMMENDATION:**

Staff recommends approval of the Ordinance as presented.

**IV. FISCAL IMPACT:**

There will be expenses associated with implementing the STR Overlay Zone and Licensing, including staff and contracts for services (CityView and Granicus). These expenses will be offset by the revenue generated from the STR Licensing fee.

**V. LEGAL ISSUES:**

The City has well established authority to adopt reasonable zoning regulations. This authority extends to regulating long-term residential uses differently than short-term residential uses. There is ample evidence that the two uses differ in their impacts on neighboring properties and community character. Accordingly, the proposed Overlay Zone is a valid exercise of the City's zoning authority.

Zoning regulations must be imposed in a way that adequately protects the value of existing improvements and reasonably restricts existing uses. The proposed ordinance would extend nonconforming status to existing short-term rental uses (i.e. these properties will be "grandfathered") if the owners provide evidence to the City that the use was lawfully established prior to the effective date of the proposed ordinance. This policy is sufficient to protect the interests of the owners of property currently being used for short-term rental purposes.

The City also has well established authority to adopt licensing ordinances to regulate businesses and occupations. Although there is some debate as to whether short-term rental uses are commercial or residential in nature, it is clear that this use constitutes a business or occupation in that it involves the provision of services to unrelated parties in return for cash payments. This type of business or occupation is widely regulated by Colorado municipalities through licensing requirements. The proposed licensing ordinance is consistent with the City's general licensing authority, with the widely accepted practices of other communities, and, as such, constitutes a valid exercise of the City's police powers.

Finally, Colorado law permits the City to impose fees to offset the costs of services provided. This authority extends to the imposition of licensing fees to offset the costs of licensing regulations. The proposed ordinance would authorize the City Manager to set the licensing fee to offset the costs of administering and enforcing the licensing ordinance. The City Manager's imposition of a fee pursuant to the proposed ordinance is a valid exercise of the City's legislative power to raise revenue.

**VI. CONFLICTS OR ENVIRONMENTAL ISSUES:**

There are no apparent conflicts or environmental issues.

**VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:**

This item is directly related to Council's goal to address the City's short-term rental issue through adoption of regulatory policies, enforcement rules, licensing procedures, and establishment of a fee structure.

**ATTACHMENTS:**

For Draft Planning Commission Minutes, Staff Presentation, and Public Comment, refer to Agenda Item regarding PL20220134.