

CITY COUNCIL COMMUNICATION FORM

FROM: Rebecca Bessey, AICP, Planning & Community Development Director

THROUGH: Gary Suiter, City Manager

DATE: May 17, 2022

ITEM: FIRST READING OF ORDINANCE: An ordinance amending Chapter 26 of the City of Steamboat Springs Revised Municipal Code by amending Sections 101, 103, 200, 300, 302, 306, 307, 701, 702, 703, 706, and 720 and adding new Section 238 to adopt the Short-Term Rental Overlay (STR) overlay zone, PL20220134.

_____ DIRECTION
_____ INFORMATION
 ORDINANCE
_____ MOTION
_____ RESOLUTION
_____ PROCLAMATION

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

Background: In June 2021, City Council directed staff to provide a range of policy options for regulating short-term rentals. In July 2021, City Council and Planning Commission identified the following three issues as the purpose of the policy discussion and any potential code changes:

- Housing supply and availability
- Neighborhood character
- Overall community character

Staff presented a range of options to consider for regulating short-term rentals. After several work sessions, City Council directed staff to move forward with improved enforcement and to work with Planning Commission to draft a Short-Term Rental Overlay Zone.

Description: Generally, the proposed text amendments will eliminate definitions, references, standards, and processes related to Vacation Home Rentals, Vacation Rentals, and (Temporary Use) Short-Term Rentals and replace them with definitions, references, and standards for newly defined

terms of Short-Term Rentals and Hosted Short-Term Rentals. If adopted, these CDC amendments are intended to be implemented concurrently with a new Short-Term Rental License Code to be adopted as Article IX of Chapter 12 of the Municipal Code. The STR Overlay Zone is comprised of three zones and six subzones:

- Zone A: Unrestricted – short-term rentals are permitted by-right, and there are no limits on the number of STR licenses to be issued.
- Zone B: Restricted – short-term rentals are permitted by-right subject to limits/caps on the number of STR licenses to be issued per subzone.
 - Subzones B1-B6 as depicted on the STR Overlay Zone Map attached to the Zone Map Amendment packet PL20220133.
- Zone C: Prohibited – short-term rentals are prohibited.

Hosted short-term rentals are permitted in all zones and are exempt from the limits/caps in Zone B. All short-term rentals and hosted short-term rentals will be required to obtain an annual STR License per the proposed Short-Term Rental License Code to be adopted as Article IX of Chapter 12 of the Municipal Code.

As drafted, existing short-term rentals will have an opportunity to register as legal nonconforming uses. Once registered, these STRs will be eligible for a STR license in Zones B even if the Subzone cap is met or exceeded, as well as in Zone C. While STR licenses will be nontransferable, legal nonconforming status runs with the land upon transfer of ownership.

Properties subject to a vested VHR permit will also be eligible for a STR license in Zones B even if the Subzone cap is met or exceeded, as well as in Zone C. While STR licenses will be nontransferable, VHR permits run with the land upon transfer of ownership.

Specifically, the proposed Short-Term Rental Overlay Zone and related text amendments include the following:

- Amend Section 200.C.4 to include reference to STR Overlay Zone. (Proposed amendment also includes correction to add missing reference to the adopted Airport Overlay zone.)
- Add Section 238 to establish purpose of STR Overlay; create subzones: A Unrestricted, B Restricted, and C Prohibited; establish standards for short-term rentals; and create a process for STR Overlay Zone Map Amendments to be reviewed.
- Amend Tables 300-1, 300-2, and 300-3 to eliminate references to terms: Vacation Home Rental, Vacation Rental, Short-Term Rental (Temporary Use), and replace with terms: Short-Term Rental and Hosted Short-Term Rental.

- Amend Section 302.E to delete Vacation Home Rental and Vacation Rental definitions and use standards and replace with definition for Short-Term Rental.
- Amend Section 306.D to replace reference to vacation home rentals with short-term rentals and add definition for Hosted Short-Term Rental.
- Amend Section 307.A to delete definition and use standards for the temporary use short-term rental.
- Amend Section 701.A.1 to replace reference to vacation home rental with short-term rental.
- Amend Table 702-1 and 703-1 to eliminate reference to Vacation Home Rental Permits.
- Amend Section 706 to delete Vacation Home Rental Permit process.
- Amend Section 720 to reference Short-Term Rental Overlay Zone Map Amendment process.
- Amend Section 101 to eliminate references to vacation home rentals.
- Amend Section 103 to establish new abandonment language for intermittent nonconforming uses. (This is a change made by staff after the Planning Commission hearing.) (Proposed amendment also includes correction to numbering error.)

Planning Commission Recommendation: The Planning Commission held a public hearing on April 28, 2022 and recommended approval (5-2) of the proposed ordinance with the following revisions:

- Hosted Short-Term Rentals allowed as a Limited Use in all overlay zones. (This was to correct an error in the draft amendments presented to the Planning Commission; it did not result in any change to the intent of the STR Overlay.)
- Remove proposed Section 238.E and proposed amendments to Section 720 to eliminate the process for STR Overlay Zone Map Amendments for Qualifying HOAs.

Public Comment: Considerable public comment has been received on the proposed ordinance. Please refer to Attachment 4 as well as the Planning Commission draft minutes in Attachment 3.

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, including the proposed amendments to Section 238.E and 720 regarding STR Overlay Zone Map Amendments for Qualifying HOAs.

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:

Attachment 1: Staff Report, 4/15/2022.

Attachment 2: Draft Planning Commission Minutes, 4/28/2022.

Attachment 3: Staff Presentation.

Attachment 4: Public Comment.