



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: DON REIMER, COMMUNITY DEVELOPMENT DIRECTOR
**RE: SHORT TERM RENTALS – DISCUSSION OF OPTIONS FOR POTENTIAL EXCISE TAX,
PER BEDROOM FEE, AND LICENSE CAP**
DATE: NOVEMBER 30, 2021

Summary and Background: Over the past several months, many communities in Colorado, and specifically mountain resort community communities, have been dealing with changes in employee availability for local businesses. While there are a number of factors which have resulted in the challenging employment environment, housing availability and affordability is frequently cited as a key reason. In Frisco, we have observed a shift in the housing market in which housing units that were previously available for long-term rent to the local workforce no longer are. Short-term rentals have frequently been identified as a factor contributing to the decrease in housing availability, and rising housing costs. The purpose of this work session discussion is to review various policy options that could be applied to short-term rentals as a means to facilitate additional workforce housing options.

Analysis: Many mountain resort communities throughout Colorado have instituted policies such as moratoriums or caps on the number of short-term rental (STR) licenses, recent ballot measures to apply or increase tax requirements for STRs, and in the case of Breckenridge, to assess an annual per bedroom license fee to STR licenses. Several of these ideas have been discussed generally by Frisco Town Council, including at the September 14 and 28 Town Council meetings, and are further described in the following sections.

Several other communities recently considered housing, short-term rental, and related questions in the November 2, 2021 election. A sampling of these ballot questions include:

- Avon – 2% excise tax (2C) on short-term rental units to fund community housing passed with 792 (70.84%) voting yes and 326 (29.16%) voting no.
- Crested Butte – 2D ballot question for \$8.985 million in debt authority, to be paid for with an increase of the excise tax on vacation rentals (5% to 7.5%); passed with 594 (74.91%) voting yes to 199 (25.09%) voting no.
- Leadville – Increase by 3% on the accommodations tax on the leasing of short-term rental units and short-term commercial public accommodations. Initiative 2A passed with 580 voting yes and 252 voting no.
- Ouray – Excise tax (15%, to sunset at the end of 2051) on short-term rentals to fund housing programs, as well as to fund debt for the water and wastewater treatment

plants. Ballot issue 2A passed with 312 (56.83%) voting yes and 237 (43.17%) voting no.

- Telluride - There were three ballot issues related to short term rentals on the ballot in Telluride including:
 - Ballot Issue 2A, which will impose a 2 percent Town Lodger's Tax on rooms and accommodations rented for 29 days or less. Ballot issue 2A passed with 748 (65.10%) voting yes and 401 (34.90%) voting no.
 - Question 2D, which includes a two-year pause on the issuance of new short-term rental (STR) licenses through November 2023 and aims to generate \$200,000 annually through a 100 percent increase on STR license fees. Ballot issue 2D passed with 657 (55.30%) voting yes and 531 (44.70%) voting no.
 - Question 300 (a citizen- initiated ordinance), which aimed to limit STRs to 400 and conduct an annual lottery to distribute the licenses beginning with dwelling in two specific zone districts and then moving on to award license in all other zone districts; primary homeowners renting rooms in their home and lodging establishments would be exempt. Ballot question 300 failed with 482 (40.10%) voting yes and 720 (59.90%) voting no.
- Vail – Sales tax (2A) increase of 0.5% (from 4% to 4.5%) to fund housing initiatives, developments and programs inside and outside the Town. The initiative passed with 957 (53.61%) voting yes and 828 (46.39%) voting no.

Generally, a theme from these recent ballot questions could be summarized as voter support for taxes and fees on short-term rentals, which could then be used to develop and support workforce housing.

Short-Term Rental Excise Tax: At the September 14, 2021 meeting, Town Council conceptually supported a potential STR excise tax of 7.5%. Imposition of this tax would require a public vote at the April 5, 2022 election. In order to place this item on the ballot, the second reading of the Ordinance and a resolution referring a ballot measure must be completed by January 31, 2022, meaning that the first reading should be on January 11, 2022 agenda, and second reading on January 25, 2022 agenda.

Currently, a total sales and lodging tax of 10.725% is applied to short-term rental stays in the Town of Frisco. A comparison of the total tax applied to STR for Frisco and nearby communities includes:

Frisco	10.725%
Breckenridge	12.275%
Silverthorne	10.375%
Dillon	10.875%
Vail	9.80% (plus additional 0.5% passed Nov 2021 = 10.3% total)
Avon	12.4% (plus additional 2.0% passed Nov 2021 = 14.4% total)
Crested Butte	18.4% (plus additional 2.5% passed Nov 2021 = 20.9% total)

Adding a new 7.5% excise tax to the current taxes applied to STR would total 18.275% tax applied to STRs in Frisco. Based on preliminary estimates based on the current number of STR licenses, if the Town's voters were to approve a 7.5% excise tax as previously discussed by Council, an additional \$1.8 million of additional revenue could be generated annually, and be used to fund and support workforce housing initiatives.

STR License Fees: Communities are also considering imposing regulatory fees that would be imposed on individual STR licenses. These fees would be used to defray the costs of Town housing policies and programs, address secondary impacts of the short-term rental industry on the community, and STR program administration and enforcement. As this is a fee intended to defray the costs of a program, imposition of any fee would first require completion of a study to calculate the cost of those impacts, and therefore set a reasonable fee to be imposed on a per unit basis.

An example in a neighboring jurisdiction is the Town of Breckenridge, which is considering adoption of an ordinance to establish a regulatory fee on a per bedroom basis for STR licenses. The first reading of the ordinance was approved at the Breckenridge Council meeting of November 9, and the second reading occurred on November 23, 2021. The Town commissioned a study performed by a consultant, Economic and Planning Systems, Inc. (EPS), which analyzed the impacts of short-term rentals within the Town, established a link between STR and workforce housing needs, and provides a basis for a fee to be imposed.

For Breckenridge, the study determined that a fee of \$2,160 per bedroom would be reasonable to defray the impacts of STR on the community. The initial proposal from Breckenridge was to set the fee at \$756 per bedroom, 35% of fee recommended by the EPS study, to be consistent with an employee mitigation rate in the Town planning code. At the time of writing of this report, Breckenridge Council was considering a further reduction to \$400 per bedroom initially, with the potential to increase to \$756 in year two.

The Town of Frisco currently has approximately 698 STR licenses, with a total of 1688 bedrooms in those properties. If Frisco were to impose a fee on a per bedroom basis, the following revenues could collected annually:

\$400 per bedroom	\$675,000
\$756 per bedroom	\$1,276,128
\$2,161 per bedroom	\$3,647,768

It should be noted that Frisco Town Council could not adopt this type of fee without first conducting the study and analysis such as the study conducted by the Town of Breckenridge and referenced above. The study would be specific to the economic conditions and STR impacts in Frisco.

STR License Caps and Moratoriums: As part of policy discussions related to STRs in mountain communities, several jurisdictions have considered either moratoriums on issuance of STR licenses, or caps on the number of licenses that could be issued in a community. A moratorium is a temporary pause for a set period of time on the processing of applications, and generally for a defined purpose, such as establishing or amending regulations. A cap is a number incorporated into Town Code, that could be on a percentage basis or as a finite maximum number of STR licenses, or types of STR licenses, that may be issued by a jurisdiction.

As an example, the Summit County Board of Commissioners approved a 90-day moratorium on new STR licenses for unincorporated Summit County, excluding Keystone, Copper, and Peak 8 resort areas. The moratorium is in effect starting September 17 2021. From the County website: *"The purpose of the moratorium is to address the local workforce housing crisis by preventing the further conversion of potential long-term housing stock, while giving the County time to examine data and take a surgical approach to any proposed code amendments."*

Similarly, on September 28, 2021, the Town of Breckenridge Council approved an ordinance capping the number of non-exempt STR licenses at 2,200. At the time of adoption, approximately 2,476 (33%) of the Town's residential properties had a non-exempt STR license. (Breckenridge classifies a number of resort-type properties as exempt STR properties). Licenses will be reduced by attrition and through non-renewals until the 2,200 cap is reached. A waitlist will then be created to issue new licenses if the number of licenses falls below the cap. At this time, a cap of 2,200 represents approximately 29% of the residential properties in Breckenridge.

Staff has observed the public hearings in these other communities, the flood of public comments at public hearings, and have seen first-hand an increase in STR applications to the Town of Frisco when Breckenridge and Summit County considered these proposals. Even though the Town of Frisco was not proposing any changes at that time, citizens naturally had concerns that the Town would follow suit, and Frisco saw an increase in both inquiries and applications as a result of actions taken by these other jurisdictions.

At present time, Frisco is in the midst of converting the STR licensing software from Host Compliance to LodgingRevs / GovOS, and is also experiencing a staffing shortage, so a temporary moratorium on STR licenses would certainly facilitate continued progress on this and other programs. However, unless Town Council directs staff to draft significant changes to the STR program, staff does not recommend that Council impose a moratorium at this time as there are not significant amendments proposed for Frisco's STR regulations.

With respect to a potential cap on STR licenses; there are currently 698 STR licenses in the Town of Frisco, which is approximately 19.4% of the residential housing units in Town. If Town Council were interested in a cap on STR licenses, staff would recommend a level of 25% of the residential properties in Frisco. 25% would be equivalent to approximately 900 STR licenses – 200 more than currently exist, yet still lower than the proportions of STR properties in Breckenridge and other resort communities.

Observations on STR Regulations: When compared to the STR regulations in other mountain resort communities, Frisco's STR regulations are relatively simple, in that all regulations apply to all residential properties equally. As an example, the Summit County moratorium exempted certain areas such as Copper Mountain, Keystone and Peak 8, and in the amended regulations currently under consideration by the County Commissioners, there is a tiered system of various levels of permits. Breckenridge has adopted regulations defining exempt and non-exempt properties based on area and property characteristics.

A citizen initiative in Frisco recently proposed restricting STR licenses in single family residences. While the petition process ultimately did not gather enough signatures to be placed on the ballot, the petition process did generate some community discussions on impacts of STRs on different neighborhoods. Staff does not currently have any suggestions on potential changes to STR regulations that would apply to different zone districts neighborhoods, or residential property typologies, however we will continue to analyze the data gathered from current STR licenses to see if there are any amendments which could serve to lessen impacts of STRs on residential neighborhoods.

Financial Impact: Depending on the course of action selected by Town Council, there will be costs and potential revenues. Pursuing a ballot question to impose an excise tax will add some costs for the election; however, if the voters approved the excise tax, annual revenues would exceed the election costs. Similarly, if Council was interested in establishing an STR license fee

with an additional per bedroom fee, an economic analysis to establish a reasonable fee would be required. Staff estimate the cost of the study in the range of \$30,000 - \$50,000; however if Council were to impose a fee based on the study results, annual revenues would exceed the cost of the analysis.

Alignment with Strategic Plan: Workforce housing is specifically identified in the *Inclusive Community* priority of the Strategic Plan. However, having an adequate supply of workforce housing in the community is critical to the other Strategic Plan Priorities as well. Workforce housing is directly related to the *Thriving Economy, Vibrant Culture and Recreation, and Quality Core Services* priorities, as having skilled employees is vital for both the private and public sector of our community. Additionally, having an adequate supply of workforce housing within the community has a positive impact on the *Environmental Sustainability* priority, demonstrated through a reduction in vehicle miles travelled by commuting employees, and therefore, vehicle emissions.

Environmental Sustainability: Ensuring availability of workforce housing has indirect benefits to the environment, as noted above.

Staff Recommendation: As noted above, while there is a growing number of STR licenses in Frisco, the current level does not seem to be out of proportion compared to similar communities. However, the housing market as a whole, which is enabled and exacerbated by the opportunity for a property owner to short-term rent their property has undoubtedly impacted both the availability and affordability of workforce housing for local employees. Staff therefore recommends that Town Council direct staff to prepare an Ordinance for consideration which would place a question on the April 5, 2022 ballot, for the voters to approve an excise tax on short-term rental stays.

Related to potential regulatory changes, staff will continue to analyze STR data to identify potential areas of concern which could be addressed by changes to the STR regulations, including limits to the number of STR licenses in a certain zone or neighborhood. Staff does not recommend a moratorium on short-term rental licenses at this time.

Approved By:

Tony O'Rourke, Town Manager
Leslie Edwards, Finance Director

Attachments: