

Capitola City Council

Agenda Report



Meeting: June 9, 2022

From: City Manager Department

Subject: Potential Second Home Tax Follow Up

Recommended Action: Receive report regarding potential second home tax, and either: 1) Provide policy input regarding structure for a second home tax for the November ballot and direct staff to prepare documentation necessary to place on item on the ballot; OR 2) Determine not to propose a second home tax to voters at this time.

Background: At a hearing on May 26, City Council received a presentation regarding polling results for a potential second home tax. Based on those results, Council directed staff to research several items and return to Council for further discussion regarding the potential tax.

The basic idea of a second home tax is that if a home is unoccupied most of the time the property is subject to a tax. In concept, this could help make housing in our community available to those who live and work here, by adding a cost burden to those who own a home in Capitola but do not live in it regularly.

Homes would be subject to the tax if the home is unoccupied, by the owner or a renter, for a certain time period during the year. The City could include exemptions to the tax, including: very low-income households; medical events, demonstrated financial hardship, active construction, the owner passing away, natural disasters, short term vacation rentals, and property sales.

Since this type of tax is newer, there are several different names for the same type of tax. The Oakland tax is called a vacant home tax. A proposed tax in Santa Cruz is called an empty home tax. Functionally, whether it is called a vacant home, empty home, or second home tax, all the measures tax property that is occupied for less than a specified period of time each year¹.

Discussion: At the May 26 hearing, City Council identified the following items for follow-up:

- Threshold to qualify for the tax
- Potential tax rates
- Uses for potential tax revenue
- Impact of the tax on ADUs
- Exemptions
- Enforcement options
- Costs to place on ballot

The following section outlines responses to the questions that were identified at the May 26 hearing, as well as other information about a potential second home tax.

Second home tax would likely be a special tax: Based on staff's research, the only city that has adopted a vacant home tax for residential property has been Oakland. There, the tax was on the ballot as a special tax, meaning the tax revenue was designed for a specific purpose, and required a "yes" vote from 2/3 of the voters to pass (the measure received 70% of the vote.) If the Santa Cruz voters succeed in putting the measure on the ballot, that measure will only require a majority vote, as courts have determined that parcel taxes placed on the ballot by the voters, rather than the City Council, require only majority (rather than 2/3) approval. If the Capitola Council were to put the measure on the ballot, Staff recommends it be a parcel tax, which is a special tax that would require 2/3 approval.

Based on the polling results, it may be challenging to obtain 2/3 voter support for a second home tax without a very organized advocacy campaign. Under state law, such a campaign cannot be funded, nor staffed with City resources.

¹ These discussions focus on a tax on residential properties, but the City could also propose to tax commercial property

Should Council wish to consider placing a second home tax on the ballot as a special tax, staff suggests specifying several uses for the tax that voters identified as top priorities in the recent polling, including:

- Affordable housing
- Support and maintain beaches
- Mitigate effects of climate change from coastal erosion, extreme weather, drought and flooding
- Fund improvements to reduce traffic congestion

Threshold to qualify for tax: In the City of Oakland, properties are subject to the tax if occupied fewer than 50 days per year. This means that the Oakland ordinance requires someone to be in the home for around seven weeks a year to avoid the tax. In the City of Santa Cruz, residents have submitted signatures petitioning for a second home tax on the November ballot. If the measure qualifies, the proposed the Santa Cruz ordinance requires someone to be in the home for 120 days (about 17 weeks) a year, otherwise the property is subject to the tax.

Staff suggests, if Council decides to put a measure on the November ballot, Council set an occupancy threshold between 60-120 days per year. The higher the threshold, the more homes would likely be impacted by the potential tax.

Impact of the tax on accessory dwelling units (ADUs): neither the Oakland tax nor the proposed tax in Santa Cruz place any occupancy requirements on ADUs. If either the main home or ADU meets the occupancy standards outlined in their taxes, then the property is exempt from the second home tax.

Staff suggests, if Council decides to put a measure on the November ballot, Council not establish an occupancy threshold specific to ADUs, but instead require occupancy of at 60-120 days/year on residential property. That occupancy requirement could be met by someone staying in either a main house or its associated ADU.

Potential tax rates: The vacant home tax rate in the City of Oakland, as approved by voters in 2018, is \$6,000 for residential parcels and \$3,000 for condominiums and duplexes. In the City of Santa Cruz, the proposed tax rates are also \$6,000 for residential parcels and \$3,000 for condominiums.

Capitola's polling results suggest there is 55% support for a \$6,000/\$3,000 tax and 58% support for a \$4,000/2,000 tax; however, that support waned when respondents were given arguments opposed and in favor of such a measure.

Based off the census data, there may be roughly 400 homes in Capitola subject to the potential tax. If that is correct, a \$6,000/\$3,000 tax could generate around \$2 million and a \$4,000/\$2,000 tax \$1.4 million.

Staff suggests, if Council decides to put a measure on the November ballot, Council propose a tax rate of \$4,000/\$2,000.

Exemptions: The Oakland tax includes exemptions to the tax for very low-income households; low-income seniors and individuals with disabilities; owners who can demonstrate that the tax would be a financial or other hardship; owners of properties being developed; and nonprofit owners. The proposed Santa Cruz tax includes exemptions for medical events, financial hardship, active construction, death of homeowner, natural disasters, short term vacation rentals, and property sales.

Staff suggests, if Council decides to put a measure on the November ballot, Council include exemptions to the tax for very low-income households (less than 50% of area median income); medical events, demonstrated financial hardship, active construction, the owner passing away, natural disasters, short term vacation rentals, and property sales.

Enforcement options: City staff believes the best mechanism to enforce the potential tax would be:

1. City staff to review utility data to determine a list of properties that are potentially occupied fewer than 60-120 days per year. The City would then issue those properties an initial determination notice.
2. The homeowner could then submit additional information to City staff to prove occupancy.

3. After considering the homeowner's submission (if any), Staff would issue a draft final determination notice
4. After receiving the City's determination, the homeowner would be able to appeal the draft final determination to an external hearing officer.

The proposed Ordinance in Santa Cruz requires a self-declaration by homeowners of vacancy status, but allows the City to audit that declaration and require documentation or evidence in support of the declaration. The Oakland ordinance requires the City to adopt a separate ordinance that outlines the method for determining and identifying the use and vacancy status of each parcel of real property in the City.

Costs to place on ballot: There is no specific cost to place a single measure on the November ballot. Election costs are prorated between all jurisdictions on the ballot, based on how many items each jurisdiction has. The cost estimate for the November 2022 election is between \$2.50 to \$4 per voter. In comparison, if the City of Capitola were to call a special, standalone election, the cost would be between \$6 to \$10 per voter.

Fiscal Impact: Capitola will participate in the November 2022 election regardless of placing a measure on the ballot as there are three City Council seats due for election. According to data from February 2022, the City of Capitola has 6,993 active registered voters. The November 2022 election is estimated to cost between \$17,482.50 and \$27,972.

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