Utility Occupation Tax Information Sheet

This mechanism taxes natural gas as a proxy for greenhouse gas emissions. Council may select an amount of revenue they would like to generate per year and require the provider to adjust annual rates accordingly to meet this revenue requirement. Annual cost increases are relatively high for natural gas consumers. At a tax rate of 4.5% staff estimates new revenue of roughly $3.6M per year at a cost of ~$51 dollars per household annually.

Bottom Line

While this mechanism taxes natural gas as a proxy for greenhouse gas emissions and can generate a steady revenue stream, annual cost increases are relatively high for natural gas consumers (e.g., 5x higher than increasing the natural gas franchise fee). In terms of the community's appetite for this type of revenue mechanism, Fort Collins staff is encouraged that Boulder's version of this tax passed with over 70% approval. There is potential that a utility occupation tax would be popular in our community as well given both municipalities' aggressive climate commitments and prior statistically valid surveys that found over 80% of Fort Collins' residents support acting on the climate emergency. However, this new tax would compound with an increase to Xcel's franchise fee, leading to a considerable uptick in the cost of natural gas for consumers if both mechanisms were enacted. Additionally, there is currently no clear way for City Council to ensure the tax would not be regressive.

Background

City staff began investigating the utility occupation tax (UOT) model when voters in the City of Boulder approved a Climate Tax in November 2022 which uses a similar mechanism. A UOT essentially taxes a natural gas provider (or other utility provider) for the taxable privilege of delivering natural gas to consumers within City limits.

Boulder's Climate Tax sets an annual amount of revenue to be collected (passed at $6.5 million) and adjusts rates each year to achieve that amount. Boulder imposes this tax on both electricity and natural gas provided by Xcel since Boulder does not have a municipal electric utility. (The $6.5 million annual revenue amount was proposed and adopted as a $2.5 million annual increase from their previous approximate annual Climate Tax revenue with $1 million set aside for wildfire recovery and resiliency efforts.) Their rates are variable by account type, with residential accounts seeing a substantially lower increase and overall cost burden than commercial and industrial.

City Councilmembers have clearly stated that equity and minimizing the regressive nature of taxation must be prioritized for any new revenue mechanism alongside GHG emissions reduction and climate-related behavior change. In the case of a UOT, the tax would be levied on the provider and presumably passed on to consumers. While the taxing jurisdiction may set the rate at which the tax is to be collected, it does not have direct control over *how* the provider passes the cost on to customers through the utility billing process.

Although public materials produced by Boulder indicate variable rate impacts by account type, Fort Collins City staff have not identified a legal mechanism by which these variable increases are being enforced. **As a result, the proposal below explores cost scenarios that do not differentiate cost increases by account type**. Nonetheless, Fort Collins staff are still exploring this possibility to limit the regressivity of the UOT mechanism and further Council's goals of keeping residential rate increases as low as possible for the end consumer.

New Revenue Potential

Given staff's current understanding of this tax mechanism, Council may select an amount of revenue it would like to generate per year and require the provider to adjust annual rates accordingly to meet this revenue requirement. Or the Council could select a tax rate and the annual revenue generated would come from that. The following scenario uses a tax rate of 4.5% generating new revenue of roughly $3.6M per year. This example rate was chosen to illustrate an amount at which bills for both residential and business accounts increased by roughly half of the 8.73% percentage increase that Boulder voters approved in 2022. Importantly, the target annual amount can be adjusted by City Council depending on its preferences.

Customer Type	Example Rate Increase	2022 Avg. Monthly Bill	Increase in Monthly Bill	Total Annual Cost Increase	Active Accounts	Annual Revenue
Residential	4.5%	$58.19	$2.62	$31.44	55,112	$1,731,906
Commercial/Industrial	4.5%	$344.02	$15.48	$185.76	4,239	$787,565
Contract (Transport)	4.5%	$6,027.53	$271.24	$3,254.88	355	$1,153,969
Total annual new revenue:						$3,673,440

Impact to Consumers

As mentioned above, Boulder has publicly stated that their UOT model for the Climate Tax differentiates average bill impacts by account type, with commercial and industrial accounts experiencing greater cost impacts than residential accounts. Fort Collins City staff have investigated Boulder's municipal code and spoken with their sustainability manager and attorneys to clarify the exact legal mechanism which enforces this public commitment. **At this time, staff is unable to clearly articulate the way that Boulder is enforcing this cost differentiation commitment in partnership with Xcel**, so there is no way to guarantee that residential accounts would see a proportionally lower increase and overall lower cost burden than commercial and industrial.

Staff is interested in learning more about Boulder's rate increase differentiation mechanism because ensuring lower impacts to residential accounts may be a way to avoid additional regressivity for this tax mechanism. Commercial and industrial accounts may be more easily able to address cost increases, so a legal mechanism to enforce higher rate impacts to these types of customers may provide a more equitable context for this type of revenue generation. Theoretically, if the City were able to enact a scenario with variable rate impacts to different types of customers, City Council would still select a target revenue amount. The cost of that target revenue would be passed down to residential accounts at a lower proportion or percentage increase than for commercial and industrial accounts, as Boulder has stated their mechanism will operate. Staff will continue to learn from Boulder's experience and commits to analyzing the feasibility of instituting this type of scenario in Fort Collins as more information becomes available.

Based on the Boulder example, a UOT could be structured to provide relief to low-income customers.