



To: Mayor and City Council
From: Jennifer Hoffman, City and County Manager
Prepared by: T. Shaun Sullivan, City and County Attorney
Sandy Herbison, Assessor
Karl Frundt, Senior Attorney
Christine Francescani, Assistant City and County Attorney

Table with 3 columns: Meeting Date (July 28, 2020), Agenda Category (Business), Agenda Item # (11(b))

Proposed Ordinance No. 2130 - An Ordinance Providing for the Submission of a Ballot Question to the Registered Electors at the November 3, 2020, Coordinated Election Concerning a Change in the City's Property Tax Mill Levy to Stabilize Revenue in the Event of a Change to the Residential Assessment Rate Due to the Gallagher Amendment - Second Reading

Summary

- At a study session conducted on June 16, 2020 the City Council directed staff to prepare a proposed ordinance that would place a question on the November 3, 2020 Consolidated Election ballot to authorize the City to adjust its mill levy for tax year 2021 and all future tax years if State-imposed changes to the residential assessment rate result in a reduction of property tax revenues when such revenues would otherwise have risen due to reassessment.
The Gallagher Amendment to the Colorado Constitution requires that 45% of the total amount of state property tax come from residential property and the remaining 55% from commercial property.
The Colorado Constitution sets the commercial assessment rate at 29%, with the residential assessment rate (RAR) fluctuating annually to maintain the 45/55 ratio. The Colorado Legislature determines whether the residential assessment rate changes every other year on the odd year.
Although the residential assessment rate can fluctuate, the residential rate has only gone down since 1982. It started at 21% and currently is established at 7.15%.
Residential property accounts for 75% of the State of Colorado's total property value, yet only pays 45% of the tax value because of the Gallagher Amendment.
In Broomfield, residential property accounts for 80% of the total property value, and the assessed value is 50% of the total assessed value.
The residential assessment rate is due to be recalculated by the State legislature for tax year 2021.
According to forecasts by the State of Colorado Property Tax Administrator, the rate could drop from 7.15% to 5.88% in that year.
If this forecasted rate were to be realized, the City and County of Broomfield would see a reduction in property tax revenue in a year that it would otherwise have seen an increase.
In order to maintain the property tax revenue at the same level as the prior year, or in order to actually receive an increase as would be expected because property values increased, the City and County of Broomfield would have to raise the mill levy.
The ballot measure adopted in 1993 gives the City and County of Broomfield the ability to keep mill levies the same as the prior tax year and to receive and spend the resulting additional revenues otherwise limited by the Tabor Amendment.
The ballot measure adopted in 1993 does not give the City and County of Broomfield the ability to raise the mill levy without a vote of the people.
Therefore, in order to maintain property tax revenues if the General Assembly reduces the residential assessment rate, the City and County of Broomfield must present to the voters a ballot measure that allows the increase in mill levies.
Proposed Ordinance No. 2130, if approved, would place the following question on the November 3, 2020 ballot:
o Shall the City and County of Broomfield be able to annually adjust its future mill levies for tax collection year 2022 and thereafter for the purpose of maintaining property tax revenues that would otherwise be lost as a result of adjustments, if any, made to the assessment ratio of actual valuation used to determine assessed valuation for residential property pursuant to the Gallagher Amendment to the Colorado Constitution, so that the actual property tax revenues generated by the city and county's mill levies are equal to the property tax revenues that would have been generated had such adjustments not occurred, with all adjustments and expenditures subject to annual financial audit; and shall the city be authorized to collect, retain and spend all revenues

collected as a result of such adjustments as a voter approved revenue change and an exception to the limits that would otherwise apply under Article X, section 20 of the Colorado Constitution or any other law?

- The General Assembly has referred to the voters an amendment to the Colorado Constitution that would eliminate the Gallagher provisions that lead to the reduction of the residential assessment ratio.
- If this should pass, the General Assembly will be able to set the ratio used to determine the assessed valuation of any class of property. For instance, it is possible that the General Assembly could leave the residential ratio at 7.15% and reduce the ratio of commercial property from 29% to, for example, 20%. This would have a negative effect on assessed values and reduce tax revenues. A ballot question that focuses solely on the residential ratio and Gallagher would not permit Broomfield to adjust the mill levy should that occur. The General Assembly did adopt SB 20-223 that imposes a moratorium on the changing of a ratio of valuation to determine assessed valuations. However, since this is a statute, the General Assembly is free to repeal or amend it at any time.
- After Council passed proposed Ordinance No. 2130 on first reading at the July 14, 2020 Council meeting, there was an amendment to the ordinance.
 - Attachment #1 is the redline version outlining the change to Section 3, striking “a change in the City and County’s tax mill levy to stabilize revenue in the event of a change to the residential assessment rate due to the Gallagher Amendment.”
 - Attachment #2 is the amended version for Council’s review.

Prior Council and BURA Action

- June 2, 2020 – Council held a [study session](#) on this issue.
- June 16, 2020 – Council held a [study session](#) on this issue.
- June 16, 2020 - [Revenue Stabilization Graphic](#) showing financial impacts of residential rate reductions.
- July 14, 2020 - City Council approved Proposed Ordinance No. 2130 on first reading and scheduled a public hearing and second reading of the proposed ordinance for July 28, 2020.

Financial Considerations

- If the State Legislature approves a decrease in the residential assessment rate, impacts to the revenue from property tax for the City and County of Broomfield would be substantial.
- There will be no impact to the current tax year (tax year 2020 payable and collected in 2021).

Alternatives

- Council could decide not to approve the ordinance.
 - If the residential property tax assessment rate is reduced due to Gallagher, the City could see a loss of revenue despite an increase in residential property values.
 - Cost savings measures and service cuts may be necessary in order to balance the budget for the City and County of Broomfield.

Proposed Actions/Recommendations

- **Hold the public hearing.**
- **Following and subject to the results of the public hearing, if City Council wishes to approve the ordinance, it is recommended...**
- **That Ordinance No. 2130 be adopted on second and final reading and ordered published in full.**

ORDINANCE NO. 2130

AN ORDINANCE PROVIDING FOR THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED ELECTORS AT THE NOVEMBER 3, 2020, COORDINATED ELECTION AT WHICH A QUESTION SHALL BE PLACED ON THE BALLOT CONCERNING A CHANGE IN THE CITY AND COUNTY'S TAX MILL LEVY TO STABILIZE REVENUE IN THE EVENT OF A CHANGE TO THE RESIDENTIAL ASSESSMENT RATE DUE TO THE GALLAGHER AMENDMENT

WHEREAS, the City and County of Broomfield is a Colorado county and municipal corporation pursuant to Article XX, Section 10 of the Colorado Constitution; and

WHEREAS, pursuant to Section 39-1-111 C.R.S., the City and County of Broomfield shall be authorized by order of the City Council to levy against the valuation for assessment of all taxable property the requisite property taxes for all purposes required by law; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR") requires voter approval for any new tax, increase in any tax rate, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or a tax policy change causing a net revenue gain, the creation of any debt, and the spending of certain funds above limits established by TABOR; and

WHEREAS, pursuant to state and federal law, the City and County of Broomfield will hold a coordinated election on November 3, 2020; and

WHEREAS, the coordinated election to be held on November 3, 2020, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the City and County of Broomfield; and

WHEREAS, the City Council is of the opinion that it should refer to the voters at the November 3, 2020, coordinated election a TABOR ballot issue concerning a change to the city and county's tax mill levy to stabilize revenue in the event of a change to the residential assessment rate due to Article X, Section 3 of the Colorado Constitution (the "Gallagher Amendment") as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. For the coordinated election to be held by the City and County of Broomfield on Tuesday, November 3, 2020, there shall be submitted to the vote of the registered electors of the City and County of Broomfield the question herein authorized.

Section 2. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance (including, without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Bold type indicates new material added between first and second reading.

Dashes through words indicates deletions between first and second reading.

Section 3. For said coordinated election, the official ballot, including absentee ballots, shall state the substance of the question to be voted upon and so stated shall constitute the ballot title and question, and each registered elector voting at the election shall indicate their choice on the question submitted, which shall be in the following form:

~~A CHANGE IN THE CITY AND COUNTY'S TAX MILL LEVY TO STABILIZE REVENUE IN THE EVENT OF A CHANGE TO THE RESIDENTIAL ASSESSMENT RATE DUE TO THE GALLAGHER AMENDMENT~~

SHALL THE CITY AND COUNTY OF BROOMFIELD BE ABLE TO ANNUALLY ADJUST ITS FUTURE MILL LEVIES FOR TAX COLLECTION YEAR 2022 AND THEREAFTER FOR THE PURPOSE OF MAINTAINING PROPERTY TAX REVENUES THAT WOULD OTHERWISE BE LOST AS A RESULT OF ADJUSTMENTS, IF ANY, MADE TO THE RATIO OF ACTUAL VALUATION USED TO DETERMINE ASSESSED VALUATION FOR RESIDENTIAL PROPERTY PURSUANT TO THE GALLAGHER AMENDMENT TO THE COLORADO CONSTITUTION, SO THAT THE ACTUAL PROPERTY TAX REVENUES GENERATED BY THE CITY AND COUNTY'S MILL LEVIES ARE EQUAL TO THE PROPERTY TAX REVENUES THAT WOULD HAVE BEEN GENERATED HAD SUCH ADJUSTMENTS NOT OCCURRED, WITH ALL ADJUSTMENTS AND EXPENDITURES SUBJECT TO ANNUAL FINANCIAL AUDIT; AND SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES COLLECTED AS A RESULT OF SUCH ADJUSTMENTS AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS THAT WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES ____

NO ____

Section 4. The coordinated election shall be conducted in accordance with all provisions of state and local law.

Section 5. The City and County Clerk shall give public notice of the election on the question hereby submitted as provided by law.

Section 6. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on July 14, 2020, and ordered published in full.

INTRODUCED A SECOND TIME and approved on July 28, 2020, and further ordered published in full.

*Bold type indicates new material added between first and second reading.
Dashes through words indicates deletions between first and second reading.*

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO

Mayor

ATTEST:

City and County Clerk

APPROVED AS TO FORM:

City and County Attorney

First Publication:

Second Publication:

*Bold type indicates new material added between first and second reading.
Dashes through words indicates deletions between first and second reading.*

ORDINANCE NO. 2130

AN ORDINANCE PROVIDING FOR THE SUBMISSION OF A BALLOT QUESTION TO THE REGISTERED ELECTORS AT THE NOVEMBER 3, 2020, COORDINATED ELECTION AT WHICH A QUESTION SHALL BE PLACED ON THE BALLOT CONCERNING A CHANGE IN THE CITY AND COUNTY'S TAX MILL LEVY TO STABILIZE REVENUE IN THE EVENT OF A CHANGE TO THE RESIDENTIAL ASSESSMENT RATE DUE TO THE GALLAGHER AMENDMENT

WHEREAS, the City and County of Broomfield is a Colorado county and municipal corporation pursuant to Article XX, Section 10 of the Colorado Constitution; and

WHEREAS, pursuant to Section 39-1-111 C.R.S., the City and County of Broomfield shall be authorized by order of the City Council to levy against the valuation for assessment of all taxable property the requisite property taxes for all purposes required by law; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer's Bill of Rights ("TABOR") requires voter approval for any new tax, increase in any tax rate, mill levy above that for the prior year, valuation for assessment ratio increase for a property class, extension of an expiring tax, or a tax policy change causing a net revenue gain, the creation of any debt, and the spending of certain funds above limits established by TABOR; and

WHEREAS, pursuant to state and federal law, the City and County of Broomfield will hold a coordinated election on November 3, 2020; and

WHEREAS, the coordinated election to be held on November 3, 2020, is one of the election dates at which TABOR ballot issues may be submitted to the registered electors of the City and County of Broomfield; and

WHEREAS, the City Council is of the opinion that it should refer to the voters at the November 3, 2020, coordinated election a TABOR ballot issue concerning a change to the city and county's tax mill levy to stabilize revenue in the event of a change to the residential assessment rate due to Article X, Section 3 of the Colorado Constitution (the "Gallagher Amendment") as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:

Section 1. For the coordinated election to be held by the City and County of Broomfield on Tuesday, November 3, 2020, there shall be submitted to the vote of the registered electors of the City and County of Broomfield the question herein authorized.

Section 2. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this ordinance (including, without limitation C.R.S. § 31-11-111) are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this ordinance and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

ATTACHMENT #2 - AMENDED VERSION FOR COUNCIL'S REVIEW

Section 3. For said coordinated election, the official ballot, including absentee ballots, shall state the substance of the question to be voted upon and so stated shall constitute the ballot title and question, and each registered elector voting at the election shall indicate their choice on the question submitted, which shall be in the following form:

SHALL THE CITY AND COUNTY OF BROOMFIELD BE ABLE TO ANNUALLY ADJUST ITS FUTURE MILL LEVIES FOR TAX COLLECTION YEAR 2022 AND THEREAFTER FOR THE PURPOSE OF MAINTAINING PROPERTY TAX REVENUES THAT WOULD OTHERWISE BE LOST AS A RESULT OF ADJUSTMENTS, IF ANY, MADE TO THE RATIO OF ACTUAL VALUATION USED TO DETERMINE ASSESSED VALUATION FOR RESIDENTIAL PROPERTY PURSUANT TO THE GALLAGHER AMENDMENT TO THE COLORADO CONSTITUTION, SO THAT THE ACTUAL PROPERTY TAX REVENUES GENERATED BY THE CITY AND COUNTY'S MILL LEVIES ARE EQUAL TO THE PROPERTY TAX REVENUES THAT WOULD HAVE BEEN GENERATED HAD SUCH ADJUSTMENTS NOT OCCURRED, WITH ALL ADJUSTMENTS AND EXPENDITURES SUBJECT TO ANNUAL FINANCIAL AUDIT; AND SHALL THE CITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL REVENUES COLLECTED AS A RESULT OF SUCH ADJUSTMENTS AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS THAT WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

YES _____

NO _____

Section 4. The coordinated election shall be conducted in accordance with all provisions of state and local law.

Section 5. The City and County Clerk shall give public notice of the election on the question hereby submitted as provided by law.

Section 6. This ordinance shall be effective seven days after publication following final passage.

INTRODUCED AND APPROVED after first reading on July 14, 2020, and ordered published in full.

INTRODUCED A SECOND TIME and approved on July 28, 2020, and further ordered published in full.

THE CITY AND COUNTY OF BROOMFIELD,
COLORADO

Mayor

ATTEST:

City and County Clerk

APPROVED AS TO FORM:

City and County Attorney

T.S.S.

First Publication:
Second Publication: