

City of Boulder Ballot Issues



**League of Women Voters®
of Boulder County**

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BOULDER ISSUE 2A PUBLIC ACCOMMODATIONS TAX

SHALL CITY OF BOULDER TAXES BE INCREASED BY UP TO \$1 MILLION (IN THE FIRST FULL FISCAL YEAR) ANNUALLY AND BY WHATEVER AMOUNTS AS MAY BE COLLECTED ANNUALLY THEREAFTER BY THE IMPOSITION OF AN INCREASE IN THE TAX ON PUBLIC ACCOMMODATIONS WHICH INCLUDES WITHOUT LIMITATION THE LEASING OR RENTAL OF ANY HOTEL ROOM, MOTEL ROOM OR OTHER PUBLIC ACCOMMODATION USED FOR LODGING PURPOSES FROM 5.5% UP TO 7.5% AS PROVIDED IN ORDINANCE NO. 7733; AND

SHALL THE FUNDS BE AVAILABLE TO PAY FOR THE GENERAL EXPENSES OF GOVERNMENT, INCLUDING WITHOUT LIMITATION MUNICIPAL IMPROVEMENTS AND SERVICES TO THE RESIDENTS AND VISITORS OF THE CITY, AND TO PROMOTE

PROGRAMS AND SERVICES THAT BRING INCREASED TOURISM TO THE CITY; AND IN CONNECTION THEREWITH; SHALL THE FULL PROCEEDS OF SUCH TAXES AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Major Provisions

The current accommodations tax would be increased from 5.5% to 7.5%. The monies would be deposited in the General Fund and up to 20% of the monies collected by this tax could be used for the promotion of tourism. The remainder would be used to pay for basic general services of the city and promote programs and services for residents and visitors. How much would be transferred from the general fund for the promotion of tourism would be determined during the city's budgeting process.

The increased 2% tax would generate approximately \$1 million per year in the first year.

The city would be able to collect, retain, and expend revenues without TABOR limitations.

Background

City Council unanimously passed Ordinance No. 7733, the Public Accommodations Tax, which voters must approve or reject because it is a tax increase. The Boulder Convention and Visitors Bureau (BCVB) originally asked City Council to place this item on the ballot to promote tourism and support the city's economic vitality. Currently the Boulder Revised Codes, Chapter

3-3, has a 5.5% tax on hotel and motel rooms and other public accommodations; the tax began on January 1, 1985. Government and its departments and charitable organizations in the course of normal business are exempt from this lodging tax. Passage of this issue would increase the current tax to 7.5% while retaining the earlier provisions. Increasing the accommodations tax brings Boulder's tax in line with other cities and towns in the area.

Those IN FAVOR say

- Promotion of tourism will benefit the 85% of downtown businesses that are small and locally owned and depend on visitors for one-half of their business. Increasing the number of visitors is good both for businesses and for the city's revenues.
- Without sunset and specific dedication, this tax provides more effective long-range financial planning and additional flexibility during economic crises.
- The Boulder Hotel & Motel Association supports this issue because it provides new unrestricted funds to the city's general fund and promotes tourism.

Those OPPOSED say

- There is no sunset provision or specific dedication of the tax.
- This increased tax will put Boulder at a competitive disadvantage.
- We should consider alternative ways of encouraging economic activity before we increase a tax that will keep visitors away from Boulder. Let's make them feel welcome.

**BOULDER ISSUE 2B
FIVE YEAR UTILITY OCCUPATION
TAX TO REPLACE LOST
FRANCHISE FEE REVENUE**

SHALL CITY OF BOULDER TAXES BE INCREASED (UP TO \$4.1 MILLION IN THE FIRST YEAR) ANNUALLY AND BY SUCH AMOUNTS AS MAY BE COLLECTED THEREAFTER, BY IMPOSING A TAX ON PUBLIC UTILITY COMPANIES TO REPLACE THE THREE PERCENT FRANCHISE FEE IF IT IS NO LONGER COLLECTED BY PUBLIC SERVICE COMPANY OF COLORADO ("XCEL ENERGY") FROM ITS BOULDER CUSTOMERS AND REMITTED TO THE CITY; AND IN CONNECTION THEREWITH SHALL THE CITY COUNCIL BE AUTHORIZED TO:

- LEVY AND COLLECT THIS TAX TO TAKE EFFECT ON JANUARY 1, 2011 AND EXPIRE ON DECEMBER 31, 2015,

- LEVY AND COLLECT THIS TAX UPON PUBLIC UTILITY COMPANIES THAT DELIVER ELECTRICITY AND NATURAL GAS TO CUSTOMERS WITHIN THE CITY OF BOULDER AT THE RATE OF \$4.1 MILLION PER PUBLIC UTILITY COMPANY,

- INCREASE THE OCCUPATION TAX LIMITED BY THE LESSER OF UP TO THREE PERCENT PER YEAR OR THE AVERAGE OF RATE INCREASES MADE BY COLORADO PUBLIC UTILITY COMPANIES IN THE PREVIOUS YEAR, AND

- DEVELOP PLANS FOR PROVIDING A CLEANER FUTURE ENERGY SUPPLY WITH MORE STABLE ENERGY RATES AND TO IMPLEMENT SUCH PLANS WITH THE INTENT OF PLACING CHOICES FOR BOULDER'S ENERGY SUPPLY ON THE BALLOT BEFORE THE END OF 2015;

AND SHALL THE FULL PROCEEDS OF THIS TAX AT SUCH RATES AND ANY EARNINGS THEREON BE COLLECTED, RETAINED, AND

SPENT, AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION, AND WITHOUT LIMITING THE COLLECTION, RETENTION, OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY THE CITY OF BOULDER UNDER ARTICLE X SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Background and Intent

The City of Boulder's 20-year franchise agreement with Xcel Energy's Public Service Company of Colorado expires on December 31, 2010. By state law Xcel has the right and the obligation to continue to provide electricity and natural gas to Boulder without an agreement. Under the franchise agreement the utility pays the city a 3% franchise fee for using the city's infrastructure and rights-of-way.

Without a franchise agreement, beginning January 1, 2011, Xcel will no longer be required to pay the fee, which brings about \$4 million into the city's general fund to help pay for such things as police, fire, and library services. In order to recoup this money, Ballot Issue 2B proposes taxing Xcel an equivalent amount for five years in the form of a "utility occupation tax." The current franchise fee is paid by energy consumers via a line item on Xcel energy bills.

Currently, Xcel also pays a 1% undergrounding fee. The ballot proposal does not address undergrounding, so the city will lose that revenue—about \$1 million a year—and the process of moving electrical wire underground may not proceed.

The city expected to place a renewal of the franchise agreement on the ballot, but Xcel and the city could not agree on the side agreements, such as renewable energy goals. Proponents of municipalization or local control also argued that a 20-year agreement (with the ability for the city to opt out after 10 or 15 years) was too long, given the rapid changes in the energy field.

Some city residents are advocating getting more energy from renewable sources, in particular through some form of local control. Xcel's franchise agreement does not deal with energy sources, but the renewal of the franchise was an opportunity to include side agreements to reach the renewable energy goals.

Ballot Issue 2B provides the city with a five-year time-out to consider local control options or a new franchise agreement. Meanwhile the city and Xcel will also continue to address energy changes through the state legislature and the Colorado Public Utilities Commission. In August, the Boulder City Council voted 6-2 not to place the renewal of the franchise agreement on the ballot.

Those IN FAVOR say

- The utility occupation tax will replace the current franchise fee so a consumer's energy bill will not increase.
- If voters don't approve this measure, they effectively shoot themselves in the foot because the city will lose about \$4 million a year.
- Ballot Issue 2B allows for a five-year time-out for the city to pursue a better franchise agreement or local control of electricity generation, collection, and distribution.

Those OPPOSED say

- This ballot issue is proposing a new tax. While the words may sound green, it's just a tax in green clothing.
- Losing the undergrounding fee is a step in the right direction; further revenue losses would allow the city to tighten its belt and cut spending further. In these tough economic times, consumers would appreciate a decrease in their energy bills.
- Voters should have been asked to vote on the franchise renewal.

BOULDER QUESTION 2C HEIGHT LIMIT

Shall Section 84 of the Charter be amended pursuant to Ordinance No.7736 to allow the installation of rooftop renewable energy improvements on the tops of buildings without regard to whether the improvements or building exceed 55 feet in height?

The proposed amendment would add “rooftop renewable energy improvements” to the current list of allowed exemptions to the height limit.

Background

Referred to voters by the Boulder City Council, question 2C results from the 2010 City Council Charter Committee’s study of issues that could be amended in the Charter. Earlier in 2010, the Colorado State Legislature passed ‘solar garden’ legislation that allows ten or more residences or businesses to be subscribers to a solar project, such as an array or ‘garden’ of solar panels. Rooftop projects do not have to serve the buildings upon which they are installed. The legislation considers rooftop solar projects to be an efficient use of rooftop space for projects that could provide multiple renewable energy sources for a community.

In Boulder, the extent and kind of renewable energy improvements atop buildings is restricted by section 84 of the City Charter, approved by voters in the November, 1971 election, which limits building height to 55 feet. Section 84 has been amended over the years to allow various exceptions, “appurtenances,” to extend above the 55-foot limit if they are functional to the building. City Code (as distinguished from the

Charter) allows these appurtenances to rise 16 feet above the 55-foot height limit, and to cover 25% of the roof space.

Major Provisions

The proposal amends the City Charter, section 84, to add “renewable energy improvements carried on or above the roof level” to the exceptions to the 55-foot height limit. The amendment enables City Council to modify City Code to allow renewable energy improvements, which could include solar panels and wind turbines. Such improvements can cover all available space on rooftops, and do not have to be an accessory to, or serve, the building they are placed upon.

If 2C passes, only the City Charter will be changed, but the City Code would be modified later by City Council.

Those IN FAVOR say

- The proposed amendment would encourage the development of the energy economy in Boulder and could benefit local renewable energy companies.
- It could advance the community’s climate action goals by increasing the production and use of renewable energy, and by allowing community members to subscribe to solar facilities that are not on their own property
- The 55-foot limit and the 25%-of-area limit do not provide enough room atop roofs to build solar gardens and other renewable energy improvements; they need to be revised.
- By removing current limits on the height, extent, and use of renewable energy improvements that can be placed atop buildings, passage of 2C would reduce restrictions on how private property can be used.

Those OPPOSED say

- The proposed amendment could create visual impacts on rooftops due to the increase in overall height and the increased visibility of rooftop additions.
- It does not in any way define or limit “renewable energy improvements.” Neither does it restrict the height or extent of the renewable energy improvements that could be built. This exception to the Charter is too broad and ill-defined.
- Passage of 2C would breach the public trust by changing the City Charter. The public voted (in 1971) in favor of 55-foot building height limits, and these limits should be retained.
- The proposal gives City Council too much power to set new height limits.

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