

Subject: Ordinance #1564 – Levy Lid Lift

Proposed Council Action:

This is on for First Reading and Discussion. Unless directed otherwise, this Ordinance Will return to Council for Second Reading and Adoption on December 6, 2022. In order to put This matter on the February 14, 2023 ballot, It must be passed on December 6, 2022.

Dept. Origin: Finance Department

**Prepared by: Jennifer Robertson
 City Attorney’s Office**

For Agenda of: November 15, 2022

Exhibits: Ordinance #1564

	Initial & Date
Concurred by Mayor:	_____
Approved/form by City Atty:	<u>JSR/11-9-22</u>
Approved by _____ Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

As the Council is aware, the City has been balancing its budget for many years by using fund reserves. This approach is not sustainable and the City has worked to increase revenues from various sources over the past few years. The City’s property tax is growing and far less than the costs of providing governmental services and therefore there is a structural gap between projected revenue and projected expenses. In order to fill this gap, the Mayor and Finance Director recommend the Council put a one year levy lid lift onto the ballot in 2023. If passed, this will be collected in 2024 and will establish a higher “base” property tax levy amount in future years.

Proposal for Levy Lid Lift. The City has the option to put a levy lid lift on the ballot next year to increase property taxes over the currently constrained 1% limitation. The Mayor and Finance Director are proposing a one-time 25% increase which will be a permanent increase **starting in 2024**. What this means is that in the first year, the City’s legal levy maximum will be increased by the percentage proposed. That then becomes part of the new basis for which all future increases (limited to 1% per year) will be made.

The City currently levies approximately \$602,242 in property tax annually which is not adequate to fund all of the City’s operations, including police and fire services. If the voters approve a one-time 25% increase, this is expected to generate approximately \$150,000 annually. Assuming the project new construction will be developed, this should be adequate to close the current gap in conjunction with the sewer utility tax described above. Without additional revenue, the City will need to reduce services in the years ahead.

What is a Levy Lid Lift? A levy lid lift is not a separate property tax, but rather a way of increasing an existing property tax. In this case, it would increase the general fund levy above the 1% increase limit. Because Ruston is levying a tax rate below its statutory maximum rate, it may ask the voters to “lift” the levy lid by increasing the tax rate to some amount less than or equal to its statutory maximum rate. Here, the \$0.325614/\$1,000 Assessed Valuation (AV) lift, would still result in Ruston being below its statutory maximum.

Basically, taxing districts have a regular property tax levy (dollar amount), which can increase a limited amount each year, subject to limitations on the maximum levy rate per \$1,000 assessed valuation (AV). Additionally, the combined rate of most local taxing districts cannot exceed \$5.90 per \$1,000 AV, and total levy rate for all taxing districts cannot exceed \$10.00 per \$1,000 AV, with certain exceptions.

The maximum levy rate varies depending on the kind of taxing district. For instance, cities that are not annexed to a fire or library district generally have a maximum levy rate of \$3.375 per \$1,000 AV, while the rate can be significantly lower than that for cities that are annexed to fire or library districts.

The total levy amount collected for a taxing district is also subject to a 101% levy limit, meaning the total dollar amount collected each year may not increase more than 1% (excluding new construction and certain add-ons) from the previous year. The 101% restriction is known as the “levy lid.”

A levy lid lift ballot measure is a mechanism for voters to approve an increase in a taxing district’s total levy by more than the 101% limit (RCW 84.55.050). Although a levy lid lift allows the total levy dollar amount to increase more than 1% over the previous year, it does not allow the levy rate per \$1,000 AV to increase above the maximum statutory or constitutional rates. A levy lid lift only requires a simple majority (50% plus one) for approval, and there are no minimum turnout or “validation” requirements.

Ruston Levy Lid. Ruston is not subject to the fire direct or library district, therefore the maximum levy rate is \$3.375 per \$1,000 AV. The City will in 2023 levy \$1.383 per \$1,000 AV which leave a capacity of \$1.992 per \$1,000 AV remaining. The proposed 25% levy lid lift, if adopted, will bring this rate to \$1.708 per \$1,000, which is below the maximum rate.

The levy rate changes annually depending on property tax valuations. Valuation within Ruston changed by 16.97% in 2022, rising from \$376,666,782 to \$440,589,860. This reduced the levy rate from \$1.58 to \$1.383 per \$1,000. Total dollars collected rose from \$596,278 in 2022 to \$602,242 in 2023.

The total amount collected will set the calculated levy rate per \$1,000 in assessed value. The City has determined that an increase in the total levy amount of 25% over current collections will amount to \$752,800 which will fund public safety adequately without the need to dip into reserve funds.

As drafted, Ordinance No. 1564 contains the necessary language to put the one-year levy lid lift onto the 2023 ballot. The goal would be to have this voted during the February 14, 2022 special election, however, if this is the only proposition on that ballot, then the costs will be much higher for Ruston than if it is on a ballot where other matters are on the ballot. Therefore, as drafted,

the Ordinance provides the City with the authority to move this proposition to a different 2023 election if deemed advisable due to costs.

Discussion of ballot propositions. If the Council passes the levy lid lift, the basic rule is that a person cannot use City resources to support or oppose a ballot measure. So Council and staff will need to be mindful to avoid accidentally violating this requirement. The City *can* provide some factual information to the public about the proposition which the City Attorney will help prepare. But no one can use any City resources, including any devices, supplies, facilities, etc. to support (or oppose) the measure. Penalties (levied by the State Public Disclosure Commission) for violations of state law by the City can be severe—up to \$10,000 per violation.

FISCAL IMPACT

At an increase of \$0.325614 per \$1,000, this revenue increase is projected to raise approximately \$150,000 per year.

RECOMMENDATION / MOTION

This is on for First Reading. Unless directed otherwise, this Ordinance will return to Council for Second Reading and Adoption on December 6, 2022. In order to put this matter on the February 14, 2023 ballot, it must be passed on December 6, 2022.

ORDINANCE NO. 1564

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, PROVIDING FOR SUBMISSION OF A PROPOSITION TO THE QUALIFIED VOTERS OF THE CITY OF RUSTON AT THE FEBRUARY 2023 SPECIAL ELECTION OR AT A LATER 2023 ELECTION, OF A PROPOSITION AUTHORIZING THE CITY TO INCREASE ITS REGULAR PROPERTY TAX LEVY ABOVE THE LIMIT ESTABLISHED IN RCW 84.55 TO PROVIDE FOR THE CONTINUAL PROVISION OF PUBLIC SAFETY AND OTHER GOVERNMENTAL SERVICES AS PERMITTED BY LAW; SETTING FORTH THE BALLOT PROPOSITION; REQUESTING THAT THE PIERCE COUNTY AUDITOR PLACE THE PROPOSITION ON THE FEBRUARY 14, 2023 BALLOT OR AT A LATER 2023 ELECTION AS DIRECTED BY THE CITY; DIRECTING ACTS CONSISTENT WITH THE AUTHORIZATIONS HEREIN; AND ESTABLISHING THE TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council of the City of Ruston, Washington (the "City") desires to provide for (1) the continual provision of public safety; and (2) the continual provision of other governmental services pursuant to RCW 36.70A.070; and

WHEREAS, in order to provide for the foregoing, the City is in need of additional funds to supplement existing City general fund revenue which is applied for these purposes; and

WHEREAS, the City's current regular property tax levy is \$1.581667028976 per \$ 1,000 of assessed value, which is \$1.79333297103 per \$1,000 of assessed value less than what is statutorily authorized, on a total assessed value of \$376,666,782, for a levy total of \$596,278.50; and

WHEREAS, the City's 2023 regular property tax levy will be \$1.38300906425 per \$1,000 of assessed value, which is \$1.99199093575 per \$1,000 of assessed value less than what is statutorily authorized, on a total assessed value of \$440,589,860, for a levy total of \$602,241.59; and

WHEREAS, RCW 84.55.050 provides for the levy of regular property taxes in an amount exceeding the limitations specified in RCW Chapter 84.55 if such increased levy is authorized by a ballot proposition approved by a majority of the voters at an election held within the taxing district (a "levy lid lift") ; and

WHEREAS, the City Council has determined that it is in the best interests of the City and its residents to submit a levy lid lift proposition under RCW 84.55.050(1) to the voters for their approval or rejection; and

WHEREAS, this Ordinance was introduced at a Regular City Council meeting for First Reading on November 15, 2022; and

WHEREAS, this Ordinance was adopted at a Regular City Council meeting during Second Reading on December 6, 2022; **NOW, THEREFORE**,

THE CITY COUNCIL OF THE CITY OF RUSTON, WASHINGTON, DOES HERBY ORDAIN AS FOLLOWS:

Section 1. Levy Lid Lift Election Called For. Pursuant to RCW 84.55.050 and RCW 29A.04.330, an election is hereby called, to be conducted election conducted and held in conjunction with the February 14, 2023 Special Election, or at a later election date in 2023, for the purpose of submitting a proposition to the qualified electors of the City asking whether the City shall levy regular property taxes in excess of the limitation established in RCW 84.55.010. The Pierce County Auditor, as supervisor of elections in Pierce County, is hereby requested to call and conduct the election referenced herein in the City of Ruston on February 14, 2023. The proposition to be submitted to the qualified voters of the City for their approval or rejection is to authorize an increase in the City's regular property tax levy by \$0.325614 per \$1,000 of assessed value, to a total regular property tax levy rate of \$1.7086230718 per \$1,000 of assessed value, or \$752,802, for collection beginning on January 1, 2024.

Section 2. Purpose of Levy Lid Lift. The purpose of the proposed levy lid lift is to provide for the continual provision of public safety and other governmental services.

Section 3. Ballot Title. The ballot title and proposition to be submitted to the voters shall be in substantially the following form:

City of Ruston Proposition No. 1

Public Safety and Government Services Levy

For the purpose providing continual funding for public safety (police, fire) and other governmental services. This proposition would increase the City's regular property tax rate by \$0.325614 to a total authorized rate of \$1.708623 per \$1,000 of assessed valuation for collection starting in 2024 and annually thereafter. The maximum allowable levy rate in 2024 shall serve as the base for subsequent levy limitations as provided by Chapter 84.55 RCW. Should this proposition be approved?

YES ()
NO ()

Section 4. Changes. The Mayor and the City Attorney are authorized to make such minor adjustments to the wording of the proposition as may be recommended or required by the Pierce County Auditor, as long as the intent of the proposition remains clear and as approved by the City

Council. They Mayor and the City Attorney are authorized to schedule this proposition for a different election date in 2023 in order to reduce the costs of the same.

Section 5. Notices Relating to Ballot Proposition. For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the City Council hereby designates (1) the City Clerk (townclerk@rustonwa.org); and (2) the City Attorney Jennifer Robertson (phone 425-450-4204, jenniferr@rustonwa.org) as the individuals whom such notice should be provided.

Section 6. Authorization of Local Voters' Pamphlet. To the extent a local voters' pamphlet and/or online voters' guide (the "Pamphlet") will be produced for the February 14, 2023 Special Election, or a later election as allowed, the preparation and distribution of information on the ballot title for inclusion in the Pamphlet is hereby authorized; provided that, the City reserves the right not to participate in the preparation and distribution of the Pamphlet if such participation would create undue financial hardship for the City or not be in the best interests of the City. The Mayor is authorized to exercise the City's right to appoint a committee to prepare arguments advocating voters' approval of the measure ("Pro Committee") and a committee to prepare arguments advocating voters' rejection of the measure ("Con Committee"); and, to not participate in the preparation and distribution of the Pamphlet. The Pamphlet shall include, if applicable, an explanatory statement and statements in favor of and in opposition to the ballot title. The preparation of the explanatory statement, the appointment of pro/con committees, the preparation of statements in favor of and in opposition to the ballot title, and the payment of the costs of the Pamphlet shall be in accordance with Chapter 29A.32 RCW and the rules and guidelines of the Auditor, as applicable.

Section 7. Authorization To Deliver Ordinance and to Perform Other Necessary Duties. The City Clerk or designee is authorized and directed no later than December 16, 2022 to certify a copy of this Ordinance to the Auditor and to perform such other duties as are necessary or required by law to the end that the proposition described herein should appear on the ballot at the special election identified in Section 1 of this Resolution.

Section 8. Election Notice. The Pierce County Auditor's Office shall cause a notice of election to be published at least once in a newspaper of general circulation within the City. Such publication shall take place not more than ten days or less than three days prior to the election date.

Section 9. Severability. If any section, subsection, sentence, clause, phrase, or word of this Resolution should be held to be invalid or unconstitutional or inapplicable by a court of competent jurisdiction, such invalidity or unconstitutionality or inapplicability thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this Ordinance.

Section 10. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, Ordinance numbering, section/subsection numbers, and any reference thereto.

Section 11. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 12. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this ___ day of _____, 2022.

APPROVED by the Mayor this ___ day of _____, 2022.

D. Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk/Treasurer

APPROVED AS TO FORM:

Jennifer S. Robertson, City Attorney

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1564