

**ORDINANCE**

**AN ORDINANCE SUBMITTING TO THE ELECTORS OF THE CITY OF MANITOU SPRINGS SEVEN BALLOT QUESTIONS AMENDING PROVISIONS OF THE CITY OF MANITOU SPRINGS CHARTER**

**WHEREAS**, pursuant to Section 13.13 of the City of Manitou Springs Charter and C.R.S. § 31-2-210, the City Council may by ordinance propose changes and amendments to the Home Rule Charter of City of Manitou Springs to be submitted to the qualified electors of the City of Manitou Springs.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MANITOU SPRINGS, COLORADO, THAT:**

**Section 1:** There is hereby submitted to the vote of the qualified electors of the City of Manitou Springs at the next general municipal election on November 3, 2015, the following proposed amendments to the Home Rule Charter of City of Manitou Springs (material to be deleted from the charter is shown by strike though and material to be added to the charter is shown by underlining):

**Chapter III – ELECTIONS**

**3.1 - Municipal Elections.**

- (a) General Municipal Elections shall be held on the first Tuesday in November in odd numbered years. Any Council Member elected at a general municipal election shall take office at the first Council meeting in January following the General Municipal Election.

**Chapter V – COUNCIL PROCEDURES**

**5.1 - Meetings to be public.**

All regular and special meetings of the Council, with the exception of executive sessions, shall be open to the public and citizens shall have a reasonable opportunity to be heard under such rules and regulations as Council may prescribe. During either a regular or special meeting, Council may, upon two-thirds vote of all members present, decide to hold an executive session for the sole purpose of considering any of the following matters:

- (a) Personnel matters regarding an employee or an applicant for employment, unless the employee or applicant requests an open meeting. ~~Personnel~~

~~matters if requested by a Council member, an employee or an applicant for employment.~~

- (b) Purchase or sale of property for public purpose.
- (c) Conferences with an attorney ~~on pending litigation or imminent court action~~ for legal advice.
- (d) Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.
- (e) Specialized details of security arrangements or investigations, including defenses against terrorism.
- (f) Consideration of documents protected by the mandatory nondisclosure provisions of the Open Records Act, which is currently located at Part 2 of Article 72 of Title 24 of the Colorado Revised Statutes, which may be amended from time to time.
- (g) Matters required to be kept confidential by federal or state laws.

## **5.9 - Emergency Ordinances.**

Emergency ordinances for the preservation of public property, health, peace, or safety shall be approved only by the unanimous vote of Councilmen present. The facts showing such urgency and need shall be specifically stated in the measure itself. No ordinance making a grant of any special privilege, levying taxes, or fixing rates charged by any city-owned utility shall ever be passed as an emergency measure. ~~Neither a~~ A public hearing, ~~a second reading, nor and~~ a first publication as provided in Section 5.8 (d), ~~shall be~~ are not required. An emergency ordinance shall take effect upon passage. Publication shall be within 10 days, or as soon thereafter as possible. ~~No ordinance shall receive final passage at the same meeting it is introduced.~~

## **~~Chapter VII - PERSONNEL MERIT SYSTEM~~**

### **~~7.1 - Personnel Merit System~~**

~~Council shall by ordinance, within twelve months from the effective date of this Charter, establish a system for employment and promotion of City Employees based on merit. Such system shall include at least the following:~~

- ~~(a) — Employment and promotion based on individual merit.~~
- ~~(b) — Just and equitable incentives and conditions of employment.~~
- ~~(c) — Classification and compensation according to performance of duties and carrying out of responsibilities.~~
- ~~(d) — Provisions for systematic tests and evaluations for appointments, promotions, and other personnel actions based on merit principle.~~
- ~~(e) — Dismissal and disciplinary procedures.~~

## ~~7.2 — Administration of.~~

~~The Mayor and Council shall administer the system of fairness to all and in a manner designed to stimulate high morale of the employees. Subject to the provisions of Section 7.4, nothing herein shall preclude the Mayor and Council from appointing, removing, and disciplining employees included under the merit system or at their discretion to delegate authority to do so.~~

## ~~7.3 — Employees Included.~~

~~All employees of the City shall be included within the provisions of the merit system.~~

## ~~7.4 — Appeal Board.~~

~~Council shall appoint a personnel merit appeal board consisting of three members who shall be registered electors of the City and serve without compensation. The board shall meet at least annually, elect a Chairman and review the Personnel Code. No member of the Board shall hold another elective or appointive city office or be a salaried employee during his tenure on the Board.~~

- ~~(a) — An aggrieved employee may appeal any action relating to suspension, dismissal, or demotion by filing within 30 days from such aggrieved action a written request with the Chairman of the Appeal Board, with a copy to the Mayor and Council. The board shall investigate and hear all appeals of aggrieved employees covered under the merit system.~~
- ~~(b) — Within 15 days following any such final hearing the board shall submit its findings in writing to the Council. The findings shall be advisory.~~

## ~~7.5 — Implementation.~~

~~The Council shall write such rules and regulations as are necessary to implement and carry out the intent expressed in this chapter.~~

## ~~7.6 — Opinions Not to Affect Employment.~~

~~No appointment to any position shall be made or withheld by any reason of any political opinions or affiliations, or political service, and no appointment or~~

~~removal from any office or employment and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reasons of such opinions, affiliations or service.~~

## **Chapter IX – BOARDS AND COMMISSIONS**

### **9.2 - Meetings to be Public.**

All meetings of boards and commissions shall be open to the public except for executive sessions, which shall be conducted according to the requirements for executive sessions set forth in Section 5.1 of this Charter. ~~The board or commission may upon two thirds vote of all members, hold an executive session for the sole purpose of considering any of the following matters:~~

- ~~(a) — Boardmember conduct if requested by a majority of boardmembers;~~
- ~~(b) — Purchase or sale of property for public purpose;~~
- ~~(c) — Conference with an attorney on pending or imminent court action;~~
- ~~(d) — Matters required to be kept confidential by Federal or State Law.~~

## **Chapter X – BUDGET CONTROL AND FINANCING**

### **10.9 – Audit**

The Council shall provide for an independent annual audit of all city accounts, and more frequent audits as may be determined necessary. Such audits shall be made by a certified public accountant, or firm of certified public accountants, selected ~~biennially~~ by the Council on a competitive bid basis as frequently as recommended by generally accepted accounting standards for governmental organizations.

## **~~Chapter XI – MUNICIPAL BORROWING~~**

### **~~11.1 – General Obligation Bonds.~~**

~~The Council shall have power to issue general obligation bonds of the City for any public purpose upon the affirmative vote of a majority of the electors of the City voting thereon, at any general or special election, provided that water extension and water improvement bonds may be issued without an election upon determination to that effect by the Council. The total outstanding general obligation bonded indebtedness of the City, other than for water bonds, shall not at any time exceed three percent (3%) of the actual valuation of the taxable~~

~~property within the City as shown by the last preceding assessment for tax purposes.~~

~~Bonds of the City, other than water bonds, shall mature in not more than fifteen years from date of issue, and shall be payable in annual installments commencing not later than five years after the date of issue of said bonds. Water bonds shall mature and be payable as provided by the ordinance authorizing the issuance of said bonds.~~

~~The Council shall have the power, without other or further preliminaries, to issue general obligation bonds of the City in the principal amount of \$550,000, for the purpose of extending and improving the water works system of the City, said bonds to bear interest at a rate or rates, to mature serially within twenty years from their date and to be callable for redemption prior to maturity at such time and in such manner, with or without premium, as may later be determined by the Council.~~

#### **~~11.2 – Revenue Bonds.~~**

~~The Council shall have power to issue revenue bonds for any public purpose upon the affirmative vote of a majority of the electors of the City voting thereon, at any special or general election. The Council shall have power to issue revenue bonds for any public purpose without the vote of the electors, provided that the aggregate amount of the revenue bonds outstanding at any time, issued without being authorized by such vote, shall not exceed five per cent of the assessed valuation of the taxable property within the City as shown by the last preceding assessment for tax purposes, and provided further, that the amount of revenue bonds to be issued at any one issue without such vote of the electors, does not exceed two per cent of the said assessed valuation.~~

#### **~~11.3 – Refunding Bonds:~~**

~~The Council may authorize by ordinance, without an election, issuance of refunding bonds for the purpose of paying outstanding bonds of the City, including special improvement bonds; provided such refunding does not result in an increase in the interest rate.~~

#### **~~11.4 – Special and Local Improvement District Bonds.~~**

~~Special and local improvement districts may be initiated either (a) by resolution of the Council, or (b) by petition of fifty one percent of the property owners in the designated district; subject in either event to protest by the majority of the property owners in the designated district. The right of protest and the notice of public hearing shall be specified in the ordinance establishing a special or local improvement district. All taxpayers within the special and local improvement~~

~~district shall be notified at their last known address prior to five days before the public hearing.~~

~~**11.5 Special or Local Improvement District Bonds — Special Surplus and Deficiency Fund.**~~

~~Whenever all outstanding bonds of a special or local improvement district shall have been paid, any monies remaining to the credit of the district shall be transferred to a special surplus and deficiency fund. Whenever there is a deficiency in any special or local improvement district fund to meet the payment of outstanding bonds and interest due thereon, the deficiency shall be paid out of said surplus and deficiency fund. Whenever a special or local improvement district shall have paid and cancelled three-fourths of its bonds issued, and for any reason the district is unable to pay the remaining bonds and interest when due, and after applying any money available in the special surplus and deficiency fund, the City shall pay the remaining bonds when due and interest due thereon and reimburse itself by collecting the unpaid assessments due the district.~~

~~Should the City pay any bonds which it is authorized to pay under this section, the limitation provided for in Section 11.1 of this Charter shall not apply to such bonds and the interest thereon.~~

~~**11.6 Special or Local Improvement District Bonds — General Benefits.**~~

~~In consideration of general benefits conferred on the City at large, by reason of the construction or installation of improvement in special or local improvement districts, the Council may, , levy annual taxes on the taxable property within the City, not exceeding three mills in any one year, to be disbursed as determined by the Council for the purpose of paying for such benefits, for the payment of any assessments levied against the City itself in connection with bonds issued for special or local improvement districts, and for the purpose of advancing money to maintain current payments of interest, and equal annual payments of the principal amount of bonds issued for any special or local improvement district hereafter created. The proceeds of such taxes shall be placed in a special fund, and shall be disbursed only for the purposes specified herein; provided, however that in lieu of such taxes, the Council may annually transfer to such special fund any available money of the City, but in no event shall the amount of money transferred in any one year exceed the amount which would result from a tax levied in such year as herein limited.~~

~~As long as any bonds issued for special or local improvement districts hereafter organized remain outstanding, the tax levy or equivalent transfer of money to the special fund created for the payment of said bonds shall not be diminished in any succeeding year until all of said bonds and the interest thereon shall be paid in full, unless other available funds are on hand therefor, or such bonds and interest are paid by the City, as required by Section 11.5 of this Charter.~~

**11.7 – Bond Sales — Limitations:**

~~Bonds shall be sold to the most favorable and best bidder for cash at public sale; provided, however, that the City shall reserve the right to reject any and all bids for the purchase of said bonds and sell the same at private sale if it is to the best advantage of the City as determined by the Council. Bonds may contain certain provisions for calling the same at designated periods prior to maturity.~~

**Chapter 13 – GENERAL PROVISIONS**

**13.7 – Actions: Notice of Injury.**

~~No action for the recovery of compensation for personal injury, death or property damage against the City on account of its negligence, shall be maintained unless written notice of the time, place and cause of injury, death or property damage is given to the City Clerk by the person injured, his agent or attorney, within sixty days of the occurrence causing the injury, death or property damage. The notice given under the provisions of this section shall not be deemed invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of injury, if it is shown that there was no intent to mislead and that the City, in fact, was not misled thereby. This provision shall not be construed as a waiver of any governmental immunity the City may have.~~

**Section 2:** The official ballot shall contain the following ballot titles, which shall also be the designation and submission clauses for the measures:

- 1. SHALL SECTION 3.1 OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE AMENDED TO SPECIFY THAT A CANDIDATE ELECTED AT A GENERAL MUNICIPAL ELECTION TAKES OFFICE AT THE FIRST MEETING IN JANUARY FOLLOWING THE ELECTION?

Yes

No

- 2. SHALL SECTIONS 5.1 AND 9.2 OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE AMENDED SO THAT THE BASES FOR CONDUCTING AN EXECUTIVE SESSION ARE SIMILAR TO THE BASES CONTAINED WITHIN THE COLORADO OPEN MEETINGS LAW?

Yes

No

3. SHALL SECTION 5.9 OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE AMENDED TO CLARIFY THAT AN EMERGENCY ORDINANCE DOES NOT REQUIRE A SECOND READING?

Yes

No

4. SHALL CHAPTER VII, PERSONNEL MERIT SYSTEM, OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE REMOVED IN ITS ENTIRETY, AS THE PERSONNEL MERIT SYSTEM IS COMPREHENSIVELY ADDRESSED IN THE CITY'S PERSONNEL MANUAL?

Yes

No

5. SHALL SECTION 10.9 OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE AMENDED SO THAT THE FREQUENCY OF THE COMPETITIVE BID PROCESS FOR AUDITORS CONFORMS TO GENERALLY ACCEPTED ACCOUNTING STANDARDS?

Yes

No

6. SHALL CHAPTER XI, MUNICIPAL BORROWING, OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE REMOVED IN ITS ENTIRETY SO THAT THE CITY'S BORROWING AND DEBT PRACTICES WILL BE GOVERNED BY THE TAXPAYER'S BILL OF RIGHTS AND COLORADO LAW?

Yes

No



7. SHALL SECTION 13.7 OF THE HOME RULE CHARTER OF CITY OF MANITOU SPRINGS BE REMOVED SO THAT THE CHARTER COMPLIES WITH THE COLORADO GOVERNMENTAL IMMUNITY ACT?

Yes

No

**Section 3:** Charter chapters and sections will be renumbered accordingly after the November 3, 2015 election.

**Section 4:** If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 5:** The repeal or modification of any provision of Manitou Springs Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

**Section 6:** This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**Section 7:** This ordinance shall take effect five (5) days after final approval on second reading and publication.

Passed on First Reading and Ordered Published this 4th day of August, 2015.

/s/ Donna Kast

City Clerk

A Public Hearing on this ordinance will be held at the August 18, 2015, City Council meeting. The Council Meeting will be held at 7:00 P.M. at City Hall, 606 Manitou Avenue, Manitou Springs, Colorado.

Ordinance Published: August 6, 2015 (in full)

*City's Official Website and City Hall*

Passed on Second Reading and Ordered Published this 18<sup>th</sup> day of August, 2015.

Approved: /s/ Marc A. Snyder  
Mayor and City Council

Attest: /s/ Donna Kast  
City Clerk

Published: August 20, 2015 (in full)  
*City's Official Website and City Hall*