

ORDINANCE

A SPECIAL ORDINANCE REPEALING SECTION 5 OF ORDINANCE NO. 1103 CONCERNING THE CONTINUING EXISTENCE OF THE CENTRAL MANITOU SPRINGS BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the Central Manitou Springs Business Improvement District (the “CMSBID”) was formed after the filing of a petition for organization, approval of a ballot question for its formation by the eligible electors of the proposed CMSBID, and passage of an ordinance forming the CMSBID by the Manitou Springs City Council;

WHEREAS, the original petition for the organization of the CMSBID filed with the City Clerk contained no provision limiting the duration of the CMSBID’s existence;

WHEREAS, the notice of election and ballot question for the November 4, 2003 election at which the formation of the CMSBID was voted upon contained no expiration date for the existence of the CMSBID;

WHEREAS, the TABOR notice for the CMSBID ballot question contained no expiration date for the existence of the CMSBID;

WHEREAS, C.R.S. §31-25-1201, *et seq.* (the “BID Act) allows for perpetual existence of business improvement districts such as the CMSBID with dissolution to occur when a petition for dissolution is filed with the governing body of the municipality or by resolution of the governing body of the municipality upon failure of the district to file an operating plan and budget for two, consecutive years;

WHEREAS, the City of Manitou Springs established the CMSBID, through the adoption of Ordinance No. 1103, pursuant to the BID Act;

WHEREAS, Section 5 of Ordinance No. 1103 provides for automatic termination of the CMSBID on December 31, 2013 unless a petition is filed with the City Clerk no later than August 1, 2013 requesting continuation of the CMSBID;

WHEREAS, the BID Act does not prohibit the City Council from altering this automatic termination provision and it is well accepted that a prior governing body may not limit the legislative authority of future governing bodies; and

WHEREAS, the City Council wishes to amend Ordinance No. 1103 to eliminate the automatic termination provision set forth in Section 5 and to eliminate the requirement for a petition to continue the CMSBID.

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

SECTION 1: Section 5 of Ordinance No. 1103 is hereby repealed.

SECTION 2: The City Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance shall be available for inspection and acquisition in the Office of the City Clerk.

SECTION 3: 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 4: This ordinance shall take effect five (5) days after final approval and adoption on second reading.

Passed on First Reading and Ordered Published this 15th day of November, 2011.

/s/ Donna Kast
City Clerk

A Public Hearing on this ordinance will be held at the December 6, 2011 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: November 17, 2011 (in full).
City's Official Website and at City Hall

Passed on Second Reading and Ordered Published this 6th day of December 2011.

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

Attest: /s/ Donna Kast
City Clerk

Approved for Council Action: /s/ Jack Benson
City Administrator

Approved as to form: /s/ Jeff Parker
City Attorney

Published: December 8, 2011(in full)
City's Official Website and at City Hall