

BY AUTHORITY

ORDINANCE NO. **4211**

COUNCILLOR'S BILL NO. **39**

SERIES OF 2023

INTRODUCED BY COUNCILLORS
DeMott, Emmons

A BILL

FOR AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF WESTMINSTER AT THE COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7th, 2023, A MEASURE AMENDING CERTAIN PROVISIONS OF THE CHARTER OF THE CITY OF WESTMINSTER REGARDING BUDGET, CONTRACT, AND PUBLICATION PROCEDURES

WHEREAS, it is necessary and appropriate that the City Council review the City's Charter from time to time to assure that its provisions are consistent with the contemporary needs of the City and the current legal requirements of the laws of the State of Colorado and the United States of America; and

WHEREAS, as currently written, the Charter provides that the City Manager may only order the transfer of budget appropriations within a departmental budget rather than within a fund at any time during the year; and

WHEREAS, as currently written, the Charter specifies that detailed estimates of proposed expenditures for the last preceding fiscal year, current fiscal year, and anticipated revenues shall be provided ending September 1st rather than July 31st; and

WHEREAS, as currently written, the Charter requires that certification of appropriation prior to execution of a contract, agreement, or purchase order obligating the City to pay an amount exceeding a maximum amount as may be set from time to time by the Council by ordinance be executed by the City Manager or Finance Director, rather than by the City Manager or the City Manager's designee; and

WHEREAS, pursuant to the terms of the Colorado Constitution, Article XX, § 9, the Charter of the City of Westminster, § 17.11 and § 31-2-210, C.R.S., the City Council has identified and determined that the proposed amendments to the City's Charter as set forth herein below shall be submitted to a vote of the City's registered electors at the special City election conducted as a coordinated election with Adams and Jefferson counties as part of the state general election to be held on November 7, 2023.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. At the election to be held on November 7, 2023, there shall be submitted to the registered electors of the City the following question:

QUESTION #1:

Shall the Westminster City Charter, Section 9.6 Budget Control, subsection (2), be amended to change the City Manager's budgetary control from the departmental budget level to the fund level, in order to allow for more effective financial management?

_____ FOR _____ AGAINST

ACTUAL WORDING OF THE PROPOSED AMENDMENT:

Section 9.6. – Budget Control.

Except for purposes which are to be financed by the issuance of bonds or by special assessment, or for other purposes not chargeable to a budget appropriation, no money shall be drawn from the treasury of

the City except in accordance with an appropriation thereof for such specific purpose, nor shall any obligation for the expenditure of money be incurred without an appropriation covering all payments which will be due under such obligation in the current fiscal year, except that:

- (1) Money from the contingency fund may be transferred by resolution at any time during the year.
- (2) The City Manager may order the transfer of budget appropriations within a funds ~~within a departmental budget~~ at any time during the year.
- (3) [The] Council may order the transfer of any unencumbered appropriation balance, or any portion thereof, from one account, department, fund or agency to another at any time during the year.

The Council may make additional appropriations by ordinance during the fiscal year for unanticipated expenditures required of the City, but such additional appropriations shall not exceed the amount by which actual and anticipated revenues of the year are exceeding the revenues as estimated in the budget, unless the appropriations are necessary to relieve an emergency endangering the public health, peace or safety.

Except in those cases where there is no logical account to which an expenditure can be charged, expenditures shall not be charged directly to the contingency fund (or other similar fund). Instead, the necessary part of the appropriation for the contingency fund (or other similar fund) shall be transferred to the logical account and the expenditure then charged to such account.

At the beginning of each quarterly period during the fiscal year, and more often if required by the Council, the City Manager shall submit to the Council data showing the relation between the estimated and actual revenue expenditures to date; and if it shall appear that the revenues are less than anticipated, the Council may reduce appropriations, except amounts required for debt and interest charges, to such a degree as may be necessary to keep expenditures within the revenues.

The balance of any budget appropriation which has not been encumbered at the end of the fiscal year shall revert to the fund from which the appropriation was made.

Section 2. At the election to be held on November 7, 2023, there shall be submitted to the registered electors of the City the following question:

QUESTION #2:

Shall the Westminster City Charter, Section 9.2 Budget Procedures, be amended to provide current year expenditures as of July 31 rather than September 1st, in order to provide the community with a more consistent basis of comparison of City expenditures?

_____ FOR _____ AGAINST

ACTUAL WORDING OF THE PROPOSED AMENDMENT:

Section 9.2. – Budget Procedures.

The City Manager shall prepare and submit to the Council on or before the fifteenth of September of each year a recommended budget covering the next fiscal year, and shall include therein at least the following information:

- (a) Detailed estimates with his supporting explanations of all proposed expenditures for each department, office and agency of the City, and for the court, showing the expenditures for

corresponding items for the last preceding fiscal year in full, and for the current fiscal year to July 31 September 1 and estimated expenditures for the balance of the current fiscal year;

- (b) Statements of the bonded and other indebtedness of the City, showing the debt redemption and interest requirements, the debt authorized and unissued, and the condition of sinking funds, if any;
- (c) Detailed estimates of all anticipated revenues of the City from sources other than taxes with a comparative statement of the amounts received by the City from each of the same similar sources for the last preceding fiscal year in full, and for the current fiscal year to July 31 September 1, and estimated revenues for the balance of the current fiscal year;
- (d) A statement of the estimated balance or deficit for the end of the current fiscal year;
- (e) An estimate of the amount of money to be raised from current and delinquent taxes and the amount to be raised from bond issues which, together with any available unappropriated surplus and any revenues from other sources, will be necessary to meet the proposed expenditures;
- (f) Such other supporting information as the Council may request.

Section 3. At the election to be held on November 7, 2023, there shall be submitted to the registered electors of the City the following question:

QUESTION #3:

Shall the Westminster City Charter, Section 13.3 Contracts, subsection (h), be amended to allow the City Manager to designate an individual to certify an appropriation has been made before a contract, agreement, or purchase order is executed, in order to provide more effective management of financial controls?

_____ FOR _____ AGAINST

ACTUAL WORDING OF THE PROPOSED AMENDMENT:

Section 13.3. – Contracts.

[...]

- (h) Before any contract, agreement or purchase order obligating the City to pay an amount exceeding a maximum amount as may be set from time to time by the Council by ordinance is executed, the ~~Finance Director or the~~ City Manager or their designee first shall have certified that an appropriation has been made for the payment thereof, or that sufficient funds will be available if it be for a purpose being financed by the issuance of bonds or by special assessments or for some other purpose not chargeable to a budget appropriation. In the case of a contract or agreement obligating the City for periodic payments in future fiscal years for the furnishing of a continuing service or the leasing of property, such certification need not cover those payments which will be due in future fiscal years; but this exception shall not apply to a contract for the purchase or construction of a public improvement unless such purchase or construction is being financed by an installment contract. Certification by the ~~Finance Director or the~~ City Manager or their designee shall be endorsed on each contract, agreement or purchase order requiring same or shall be filed as an attachment thereto.

[...]

Section 4. At the election to be held on November 7, 2023, there shall be submitted to the registered electors of the City the following question:

QUESTION #4:

Shall the Westminster City Charter, Section 17.5 Definition of Publication, Mailing of Notices, be amended to change the requirements for the publication of notices and ordinances from newspaper publication only to allow for either newspaper publication or publication on the City's official website, or both, in order to allow for notices to reach more people, more effectively, and more quickly?

_____ FOR _____ AGAINST

ACTUAL WORDING OF THE PROPOSED AMENDMENT:

Section 17.5. – Definition of Publication, Mailing of Notices.

The requirement contained in this Charter for the publishing or publication of notices or ordinances shall be met by either posting such notice or ordinance on the City's official website, or by publishing an appropriate insertion in a newspaper published in the English language for the dissemination of news of a general character, which newspaper shall have had a general circulation at regular intervals in the city for at least two (2) years immediately preceding the time that it is used for such publication purposes, or both. The affidavit of the printer or publisher of such newspaper, or of his foreman or principal clerk, annexed to a printed copy of such notice, ordinance or proceeding taken from the paper in which it was published and specifying the times of publication shall be prima facie evidence of such publication.

In any case in which this Charter requires the mailing of notices, the affidavit of the officer or employee responsible for such mailing that such notice was mailed shall be prima facie evidence of such mailing.

Section 5. The City Clerk is hereby directed to take such action as may be required or permitted by law in connection with the election.

Section 6. The officers and employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 7. If any section, paragraph, clause or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance.

Section 8. All acts, orders, and resolutions, and parts thereof, inconsistent with this ordinance be, and the same are, repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 9. This ordinance shall take effect upon its passage after second reading.

Section 10. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 14 day of August, 2023.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 28 day of August, 2023.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office