

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PROPOSING TO AMEND ARTICLE II, SECTION 205(D) OF THE MESA CITY CHARTER BY CREATING AN EXCEPTION TO THE PROHIBITION ON BARGAINING COLLECTIVELY BY ALLOWING A MEET AND CONFER PROCESS AND MEMORANDUM OF UNDERSTANDING WITH SWORN PUBLIC SAFETY EMPLOYEE ORGANIZATIONS CONCERNING WAGES AND OTHER FORMS OF DIRECT MONETARY COMPENSATION, HOURS, NON-HEALTH RELATED BENEFITS, AND WORKING CONDITIONS NOT COVERED UNDER STATE OR FEDERAL LAWS OR CITY PERSONNEL RULES.

WHEREAS, the Mesa City Charter, Section 205(D), currently prohibits the City from bargaining collectively with employees, employee groups or employee organizations with respect to wages, hours, or working conditions.

WHEREAS, the City of Mesa recognizes the importance of public safety and the value of attracting and retaining exceptional public safety employees.

WHEREAS, Mesa is the only Arizona city with a charter provision that prohibits the City from bargaining collectively with employees or employee groups or organizations.

WHEREAS, to bolster its efforts to attract and retain outstanding police officers and firefighters, the City Council desires to create a limited exception to Section 205(D) of the City Charter that allows City management to engage in a meet and confer process and the City to enter into a memorandum of understanding with only sworn public safety employee organizations concerning wages, compensation, hours, non-health related benefits, and working conditions that are not covered under city personnel rules or state or federal law, as may be amended from time to time.

WHEREAS, the City has personnel rules that are adopted by the City Council pursuant to Section 403 of the City Charter. The City Charter changes in this Ordinance are not intended to, and shall not result in, conflicts with the city's personnel rules, as may be amended from time to time; and the City Charter changes in this Ordinance are not intended to, and shall not, limit City management's ability to meet on and discuss any issues with, or proposed changes to, the city's personnel rules with any employee or employee organization or group, including sworn public safety employee organizations.

WHEREAS, these changes to the City Charter are intended to compliment City management's practice of meeting on and discussing any employment issue with any employee or employee organization or group, including sworn public safety employee organizations. The City Charter changes in this Ordinance are not intended to, and shall not, limit City management's

ability to meet on and discuss any employment issue with any employee or employee organization or group, including sworn public safety employee organizations.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Mesa, Arizona, as follows:

Section 1: That, subject to approval by the voters of the City of Mesa and the Governor of the State of Arizona, Article II, Section 205(D) of the Mesa City Charter is amended as follows, with text written in **BOLD AND CAPITALIZED** indicating new language.

205(D) BARGAINING PROHIBITED; MEET AND CONFER EXCEPTION; NO INTERFERENCE WITH CITY SERVICES.

The City shall not bargain collectively with any employee, group of employees, employee organizations, or any representative of any employee organization with respect to wages, hours, or working conditions, **EXCEPT:**

- 1. THE CITY MANAGER, OR DESIGNEE, IS PERMITTED TO MEET AND CONFER WITH SWORN PUBLIC SAFETY EMPLOYEE ORGANIZATIONS TO NEGOTIATE A MEMORANDUM OF UNDERSTANDING WITH RESPECT TO ONLY THE FOLLOWING TOPICS: WAGES AND OTHER FORMS OF DIRECT MONETARY COMPENSATION, HOURS, NON-HEALTH RELATED BENEFITS, AND WORKING CONDITIONS THAT ARE NOT COVERED UNDER THE CITY'S PERSONNEL RULES OR STATE OR FEDERAL LAW. FOR THE PURPOSE OF THIS SECTION, SWORN PUBLIC SAFETY EMPLOYEE ORGANIZATIONS SHALL MEAN ORGANIZATIONS REPRESENTING SWORN POLICE EMPLOYEES UP TO AND INCLUDING THE RANK OF SERGEANT, AND ORGANIZATIONS REPRESENTING SWORN FIRE EMPLOYEES UP TO AND INCLUDING THE RANK OF CAPTAIN.**
- 2. A MEMORANDUM OF UNDERSTANDING BECOMES EFFECTIVE UPON AN ANNUAL APPROPRIATION OF FUNDS AND APPROVAL BY THE CITY COUNCIL; PROVIDED, HOWEVER, THAT THE CITY COUNCIL MAY MODIFY OR TERMINATE A MEMORANDUM OF UNDERSTANDING IF IT DETERMINES THAT FUNDS ARE NOT AVAILABLE DURING THE FISCAL YEAR OR IF THE FUNDS ARE NOT INCLUDED IN THE ANNUAL CITY COUNCIL APPROVED BUDGET.**
- 3. NOTHING IN A MEMORANDUM OF UNDERSTANDING SHALL MODIFY OR CONFLICT WITH AN EXISTING ORDINANCE OR THE CITY'S PERSONNEL RULES, AND ANY SUCH MODIFICATION OR CONFLICT SHALL BE VOID AND UNENFORCEABLE.**
- 4. THE CITY MANAGER MAY ADOPT POLICIES TO IMPLEMENT THESE CHARTER PROVISIONS THAT ARE NOT IN CONFLICT WITH THESE CHARTER PROVISIONS.**

5. **NOTWITHSTANDING ANY OTHER PROVISION IN THE CHARTER, THE CITY SHALL DETERMINE APPROPRIATE STAFFING LEVELS TO PROVIDE CITY SERVICES.**
6. **STRIKES, WORK STOPPAGES, SLOW DOWNS, OR ANY OTHER CONCERTED EFFORTS TO INTERFERE WITH CITY OF MESA SERVICES ARE CONTRARY TO THE PUBLIC GOOD AND STRICTLY PROHIBITED. NOTHING IN THIS CHAPTER SHALL PERMIT ANY EMPLOYEE TO ENGAGE IN SUCH ACTS.**

Section 2: BALLOT MEASURE LANGUAGE. The City Clerk is directed to provide to the Maricopa County Recorder's Office, in substantially the form set forth in this Section 2, the official title, descriptive title and questions, and ballot tagline for the City Charter amendment proposed by this Ordinance to be placed on the ballot at the next general election. Notwithstanding the foregoing, the City Council acknowledges that the Maricopa County Recorder's Office, Arizona Secretary of State's Office, or other office/agency of a governmental unit may require or reasonably request a modification to the language in this Section 2 based on election requirements, including spacing availability on a ballot; therefore, the City Clerk is authorized to modify the language set forth in this Section 2 at her discretion, for any reasonable purpose related to elections.

OFFICIAL TITLE: Ordinance No. _____ - An Ordinance of the City Council of the City of Mesa, Maricopa County, Arizona, proposing to amend Article II, Section 205(D) of the Mesa City Charter by creating an exception to the prohibition on bargaining collectively by allowing a meet and confer process and memorandum of understanding with sworn public safety employee organizations concerning wages and other forms of direct monetary compensation, hours, non-health related benefits, and working conditions not covered under state or federal laws or city personnel rules.

DESCRIPTIVE TITLE: Amend the Mesa City Charter to allow a meet and confer process and memorandum of understanding with sworn public safety employee organizations concerning wages, compensation, and certain benefits and working conditions that are not covered under state or federal laws or city personnel rules.

A "YES" vote shall have the effect of amending the existing Article II, Section 205(D) City Charter provision to allow the City to have a meet and confer process and memorandum of understanding with sworn public safety employee organizations.

A "NO" vote shall have the effect of retaining the existing Article II, Section 205(D) City Charter provision.

TAGLINE: Shall the amendment to Section 205(D) of the Mesa City Charter allowing a meet and confer process and memorandum of understanding with sworn public safety employee organizations concerning wages and other forms of direct

monetary compensation, hours, non-health related benefits, and working conditions not covered by state or federal laws or city personnel rules be approved?

Section 3: Recitals. The recitals above are fully incorporated in this Ordinance by this reference.

Section 4: Intent, Interpretation and Application. The amendments to Article II, Section 205(D) of the City Charter as set forth in this Ordinance are not intended to define or limit the membership of a public safety employee organization. These amendments to the City Charter, however, limit the meet and confer process and any resulting memorandum of understanding to include only sworn police officers up to and including the rank of sergeant and sworn firefighters up to and including the rank of captain.

Section 5: Adoption of Amendment. In accordance with Section 903(C) of the Mesa City Charter, if a majority of the qualified electors of the City voting upon the proposed City Charter amendment vote in favor of it, the amendment shall become effective the first day after approval by the Governor of the State of Arizona.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA this 16th day of May, 2022.

APPROVED:

Mayor

ATTEST:

City Clerk