

ORDINANCE NO.

Sponsor: Human Resources

Amending Chapter 2 of the Code of Ordinances of Kansas City, Missouri, “Administration,” by repealing and replacing certain sections to include municipal judges currently in the Elected Officials Money Purchase Plan into the Employees’ Retirement System and to change the required distribution date set by federal law in certain money purchase plans, and establishing an effective date.

WHEREAS, prior to 2011, the municipal court judges were members of a defined benefit pension plan as part of their employment with the City; and

WHEREAS, the municipal court judges appointed since 2011 have been part of the Elected Officials Money Purchase Pension Plan, which is not a defined benefit plan; and

WHEREAS, the City wishes to include the municipal court judges as members of the Employees’ Retirement System, a defined benefit plan, beginning in August 2024; and

WHEREAS, on April 23, 2024, the Employees’ Retirement System Board of Trustees voted to recommend including current municipal court judges in the Employees’ Retirement System; and

WHEREAS, two current municipal court judges who were appointed prior to 2011 will remain part of the Retirement System for Elected Officials defined benefit plan

WHEREAS, in 2022 the US Congress passed SECURE 2.0 Act of 2022 that changed the ages for required distributions of the City’s pensions which includes money purchase pension plans; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF KANSAS CITY:

Section 1. That Chapter 2 of the Chapter 2 of the Code of Ordinances of Kansas City, Missouri, “Administration,” be amended by repealing Sections 2-1172, 2-1331, 2-1332, 2-1395.2, 2-1395.7, 2-1395.9 and 2-1396.9 and enacting in lieu thereof sections of like number and subject matter to read as follows:

Sec. 2-1172. Membership.

(a) *Generally.* All full-time, permanent employees in the classified and unclassified services shall become members of the retirement system as a condition of employment, including, all full-time, permanent former MAST employees who became city employees as of April 25, 2010, and who did not become members of the Fire Fighters' Pension System. Former MAST employees have the option within 60 days of the passage of this ordinance to elect to become members of this plan in lieu of participation in the defined contribution plan set out in Division

10. Also included in membership are those who have retired in circumstances establishing eligibility for an annuity in this pension system and inactive members on leave of absence.

(b) *Employees of boards.* Employees of any administrative board or board of control as organized and existing under the general laws of the state and as defined in RSMo § 95.540, whose governing body has elected membership, shall be members.

(c) *Effective date.* Membership shall begin on the first day of employment. It shall cease upon termination of employment or death.

(d) *Ineligible employees.* Members of the police, firemen's, or any other defined benefit pension system involving city funds, receiving or entitled to receive a future pension from the systems, are ineligible for membership except as otherwise provided herein.

(e) *Persons hired at age over 60 years.* Employees previously deemed ineligible for membership because they were hired at an age over 60 years shall immediately become members. They may elect to claim membership service since date of employment by paying into this retirement system, no later than July 1, 1988, a single sum equaling the employee contributions they would have made had they been members at the time of their employment.

(f) *Municipal Court Judges.* Employees who are employed full-time or part-time as municipal court judges on August 25, 2024 or appointed after that date, and are not a member of the retirement system for elected officials set forth in division 6 shall become members of the retirement system as a condition of employment.

Sec. 2-1331. Elected officials not to participate in employees' retirement system.

(a) Notwithstanding the provisions of section 2-1172(c), from and after November 27, 1968, elected officials shall not participate in the employees' retirement system and shall be considered terminated employees in that retirement system. Beginning August 25, 2024, this provision shall not apply to municipal court judges appointed after April 30, 2011.

(b) From and after the effective date of this division, all annuities now being paid to former active members or to beneficiaries of former active members under the terms of present or former ordinances of the city, and all rights presently vested in former active members to receive benefits in the future under the terms of present or former ordinances of the city, will remain in effect and be unchanged by the enactment of this division.

(c) The city has the right to discontinue or terminate the retirement system plan in whole or in part. The rights of all affected members to benefits accrued to the date of termination, partial termination, or discontinuance, or cessation of contributions by an employer shall be 100 percent vested and nonforfeitable to the extent funded.

Sec. 2-1332. Eligibility; retirement benefits.

(a) *Generally.* Each member of the plan, as the term member is fully defined in section (f), shall receive an annuity payable until the first day of the month following death and beginning 1) the first day of the month following attainment of age 60; or 2) the later of the expiration of the member's last term of office or the date of attaining mandatory retirement age if that date occurs during a term of office. Nothing herein shall be construed as preventing or limiting an elected official's ability after serving one elective term to retire prior to the completion of a term of office and receive an annuity computed in accordance with the retirement date selected by the elected official.

(b) *Application for retirement.* Written application to the board of trustees shall be made at least 30 days prior to retirement date.

(c) *Amount of annuity.* For those elected officials whose service terminates on or after November 1, 2000, the annuity shall be 2.22 percent of the average monthly compensation received by then serving elected officials of the same office during the 24 months next preceding the beginning of the annuity, multiplied by the number of years' and months' creditable service, limited to 70 percent of the existing salary for then serving elected officials of the same office.

(d) *Cost-of-living adjustment.* An annual cost-of-living adjustment in annuities shall be payable under these conditions:

(1) *Effective date of adjustment and applicability.* An annual cost-of-living adjustment shall be payable on pension checks to be dated May 1 of the current year and shall remain unchanged until the next effective date of adjustment. For retirements occurring on or after January 1, 2021, the adjustment shall apply to all beneficiaries receiving benefits, except no pension of any member or beneficiary retiring after February 1 of any year shall be adjusted until May 1 of the succeeding year.

(2) *Amount of Adjustment.* The adjustment shall be three (3%) percent, each year, non compounded.

(e) *Early retirement; rule of 80.*

(1) Elected officials may elect early retirement beginning at the later of age 55 or completion of ten years' creditable service. The benefit as computed in this

subsection shall be reduced by 0.5 percent for each month the effective date is prior to the first day of the month following attainment of age 60.

(2) A member may elect to retire when the total of the member's age and years of creditable service equal or exceed 80, without reduction of benefits as calculated in this subsection.

(f) *Membership.*

(1) *Members of the Council, including the Mayor.*

(a) *Exclusion from plan.* Unless otherwise provided, no members of the Council, including the Mayor, who commence a term of office after April 30, 2011 shall participate in this plan for any service after April 30, 2011. The City will, however, for those nonmembers, provide a Kansas City Elected Officials Money Purchase Plan for their service after April 30, 2011, as set forth in Section 2, Article IX, Division 9.

(b) *Exception.* Members of the Council, including the Mayor, elected on March 27, 2007 for a term beginning May 1, 2007 and also elected on March 22, 2011 for a term beginning May 1, 2011 are members of this plan as long as they are continuously a member of the council, including the mayor.

(2) *Judges of the Municipal Court.*

(a) *Continuous service on and after May 1, 2011.* Judges of the Municipal Court, retained on March 22, 2011 for a term beginning May 1, 2011 are members of this plan or any other plan which they previously joined. No Judges of the Municipal Court appointed to the Court by the Mayor and Council on or after May 1, 2011 shall participate in this plan for any service.

(b) *Appointment on and after May 1, 2011.* Judges of the Municipal Court appointed on or after May 1, 2011 are not members of this plan. The City will, however, for those nonmembers, provide a Kansas City Elected Officials Money Purchase Plan for their service after April 30, 2011, as set forth in Section 2, Article IX, Division 9. Beginning August 25, 2024, any municipal court judge who is not a member of the retirement plan for elected officials in this division 6 shall become a member of the employee retirement system.

(g) *Required distributions.* Distribution of a member's interest in the retirement system shall commence not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 72 or the calendar year in which the member retires under the plan.

(h) *Creditable service.* The term "creditable service," as used in this section, shall mean service as a city employee and elected official continuously to either the member's retirement date or the member's attaining mandatory retirement age, whichever occurs first. If a member of the employees' retirement system becomes a member of this elected officials' retirement system maintaining a continuous service, the member's employees' retirement system member contributions and interest shall not be refunded, but shall be transferred to the member's account in the elected officials' retirement system.

(i) *Withdrawal of contributions.* A member retiring under the provisions of subsection (a) of this section, except disability retirements, may elect, with signed consent of the member's spouse, to withdraw all or a portion of the member's accumulated contributions and interest, and receive a reduced annuity. The annuity calculated in this subsection (i) shall be reduced an actuarially equal amount by applying factors adapted by the board of trustees upon recommendation of the retirement system's consulting actuary.

(1) *Rollovers.* The provision applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the retirement system plan to the contrary that would otherwise limit a distributee's election under this provision, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

a. *Eligible rollover distributions.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net realized appreciation with respect to employer securities).

- b. *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(b) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- c. *Distributee.* A distributee includes a member or former member. In addition, the member's or former member's surviving spouse and the member's former spouse who is the alternative payee under a state domestic relations order determined by the board of trustees, based on written procedures, to be a qualified domestic relations order, are distributees with regard to the interest of the spouse or former spouse.
- d. *Direct rollover.* A direct rollover is a payment by the fund to the eligible retirement plan specified by the distributee.

(j) *Health insurance subsidy.* A \$200.00 monthly retiree health insurance subsidy shall be payable to all retired members effective November 1, 2000.

(k) *Limitations.* Benefits with respect to a member may not exceed the maximum benefits specified under Section 415 of the Federal Internal Revenue Code for governmental plans.

(l) *Spouse.* For purposes of this division, spouse is defined as a husband or wife, lawfully married in any jurisdiction, of the member. Surviving spouse is defined as the spouse of a member surviving the member's death.

Sec. 2-1395.2. Definitions.

The following words and phrases as used in this division shall have the following meanings, unless a different meaning is plainly required by the context:

Board means the board of trustees of the trust as provided for in section 2-1365 of the city's Code of Ordinances.

Code means the Internal Revenue Code of 1986, as amended, and includes any regulations promulgated thereunder.

Compensation means the basic monthly wage or salary paid an employee excluding bonuses, overtime, expense allowance and other extraordinary compensation. Compensation shall include amounts contributed to any plan maintained by the employer pursuant to a salary reduction agreement where the member could have elected to receive such amount as base compensation. Annual compensation means compensation defined in code section 415(c)(3) and section 1.415-2(d) of the treasury regulations.

Elected official means any member of city council, including the mayor, who is elected on March 22, 2011 for a term beginning May 1, 2011, (excepting an elected official who has continuously held office since May 1, 2007, and is reelected on March 22, 2011), or any municipal court judge appointed on or after May 1, 2011, and are not a participant in the retirement system for elected officials as set forth in division 6. No municipal court judge shall be considered an elected official under this definition beginning August 25, 2024 for purposes of the employer making contributions under this plan.

Investment options means any funding vehicle which the board permits under the terms of the program.

Participant means an elected official who has been enrolled in the program and who retains the rights to benefits under the program.

Plan means a plan described in code section 401(a) of the Internal Revenue Code adopted by the board on behalf of the city for the benefit of elected officials.

Program means this Kansas City Elected Officials' Money Purchase Pension Plan as set forth herein and as may be amended from time to time. The term "program" also encompasses the term "plan."

Termination means resignation or discharge of elected official from service of the employer.

Trust means the Kansas City Elected Officials' Money Purchase Pension Plan Trust established pursuant to the program.

Sec. 2-1395.7. Membership.

(a) *Generally.* Membership shall include only those elected officials who are first elected or appointed on or after March 22, 2011, and are not participants in the retirement system for elected officials established in section 2, article IX, division 6.

(b) *Municipal Court Judges.* Municipal court judges employed as of August 25, 2024 who are not a member of another pension plan shall become members of the Employee Retirement System, and employer shall no longer make contributions to this plan on their behalf.

(b) *Effective date.* Membership shall begin on the first day of service. It shall cease upon termination of employment or death.

Sec. 2-1395.9. Conditions for retirement.

Required distributions. Distribution of a participant's interest in the program shall commence not later than April 1 of the calendar year following the later of the calendar year in which the participant attains age 72 or the calendar year in which the participant retires under the program. The required distribution date shall be age 73 for members who attain age 72 after December 31, 2022 and age 75 for members who attain age 74 after December 31, 2032.

Sec. 2-1396.9. Conditions for retirement.

Required distributions. Distribution of a participant's interest in the program shall commence not later than April 1 of the calendar year following the later of the calendar year in which the participant attains age 72 or the calendar year in which the participant retires under the program. The required distribution date shall be age 73 for members who attain age 72 after December 31, 2022 and age 75 for members who attain age 74 after December 31, 2032.

Section 2. That this ordinance will become effective August 25, 2024.

Approved as to form:

Senior Associate City Attorney