

AN ORDINANCE REVISING ARTICLE I OF CHAPTER 2.5 “EMPLOYEES’ RETIREMENT FUND,” OF THE CODE OF THE CITY OF FORT WORTH (2015), AS AMENDED, TO ADDRESS COUNCIL AIDE POSITIONS BECOMING MEMBERS OF THE RETIREMENT PLAN AND TO PROVIDE A ONE-TIME ELECTION ALLOWING THOSE CURRENTLY SERVING IN SUCH POSITIONS NOT TO BECOME MEMBERS OF THE PLAN; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article 6243i of the Texas Revised Civil Statutes (“Article 6243i”) applies to the Employees’ Retirement Fund of the City of Fort Worth (“the Fund”); and

WHEREAS, Section 1.02 of Article 6243i defines “Participating member” of the Fund as an individual “who makes contributions to the public retirement system as an employee of a municipality to which [Article 6243i] applies”; and

WHEREAS, Section 2.01(a) of Article 6243i provides that a person “becomes a participating member . . . on the date of the person’s employment” unless “otherwise provided by administrative rule, municipal ordinance, or this section”; and

WHEREAS, Section 2.01(b) of Article 6243i identifies classes of individuals who are not eligible to be participating members; and

WHEREAS, because participating members can receive retirement benefits via the Fund, the City does not participate in the Social Security program under the Federal Insurance Contributions Act (“FICA”), does not withhold Social Security contributions from the paychecks of Fund members, and does not make employer contributions for Fund members’ Social Security benefits; and

WHEREAS, the individuals who assist members of the City Council as council aides or district directors historically worked on a less than full time basis; were traditionally hired, disciplined, and fired directly by the Councilmember; and have not been regular employees or participating members of the Fund; and

WHEREAS, council aides/district directors are *not* rendered ineligible to be participating members under Section 2.01(b) of Article 6243i; and

WHEREAS, council aides/district directors and those individuals who are ineligible under Section 2.01 have been required to participate in the City’s FICA-alternative plan, which involves withholding the equivalent amount of a Social Security employee contribution from the paychecks

of those not participating in the Fund and placing that amount in a fund from which the individual will receive payment in retirement; and

WHEREAS, in recent years the role of council aide/district director has evolved, with many individuals serving on a full-time basis; and

WHEREAS, the Fort Worth City Council wishes to revise the City's retirement ordinance so that council aides/district directors who are hired in the future automatically become participating members of the Fund on beginning their employment with the City and so that individuals serving in the role of council aide/district director at the time this change goes into effect are given a one-time option of becoming participating members of the Fund or of remaining outside the Fund; and

WHEREAS, per Section 2-27 of the City Code, council aides/district directors serve within a division of the City Manager's Office; and

WHEREAS, any council aide/district director who elects to become a participating member of the Fund would, under Section 2.5-5(b)(3) of the City Code, be a member of group C and entitled to cast votes for and be nominated and/or elected to Place 3 of the board of trustees of the Fund; and

WHEREAS, any council aide/district director who elects not to become a participating member of the Fund would be required to continue participation in the City's FICA-alternative plan.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS:

SECTION 1.

That Section 2.5-2, "Membership in the Fund," of the Code of the City of Fort Worth is hereby amended to revise paragraph (a) to add a new sentence addressing individuals serving in a class of positions being converted from non-employee to employee status to allow such individuals to make an election on whether to become members of the Fund, with such section 2.5-2(a) to read as follows:

- (a) Membership in the fund shall be based on the requirements set forth in Tex. Revised Civil Statutes Article 6243i, § 2.01, provided however, that membership in the fund shall be a condition of employment for all employees who are eligible to be members. Notwithstanding the generality of the foregoing, in the event a class of positions is converted from a status other than regular full-time employee to a status of regular full-time employee, any individual

who holds such a position prior to the effective date of such conversion shall be afforded a one-time opportunity to make an irrevocable election as to whether to become a member of the fund, and any individual who elects not to become a member of the fund shall continue to be required to participate in the city's social-security-alternative plan.

SECTION 2.

That this ordinance shall be cumulative of all provisions of ordinances of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

That it is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall render the entire section invalid and section will revert back to the section in effect prior to the passage of this ordinance. Otherwise, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

That the City Council finds that all acts, conditions and things required by provisions of the Constitution of Texas and Charter and Ordinances of the City of Fort Worth precedent to and in the adoption of this Ordinance have been done, have happened and have been performed in proper and lawful time.

SECTION 5.

That this ordinance shall take effect upon adoption.

APPROVED AS TO FORM
AND LEGALITY:

By: _____
Assistant City Attorney

ATTEST:

By: _____
Ronald P. Gonzales, Acting City Secretary