

ORDINANCE NO. 47-965

AN ORDINANCE AMENDING SECTIONS 2.28.230 AND 2.28.240 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO ADMINISTRATION OF THE WICHITA EMPLOYEES' RETIREMENT SYSTEM, AND REPEALING THE ORIGINALS OF SAID SECTIONS.

WHEREAS, the DROP provisions in the City Code sections governing the Wichita Employees' Retirement System were originally enacted with the implicit assumption that participants electing a DROP period would leave service at the end of such period; and,

WHEREAS, in actual experience, some participants, after electing a specified DROP period, have subsequently decided not to leave service at the end of such period, with the effect that it is now necessary and useful to adopt clear provisions for addressing such contingencies when they arise, all of which provisions have been approved and recommended by the Board of Trustees of the Wichita Employees' Retirement System,

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 2.28.230 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.230 Deferred Retirement Option Plan (DROP) for Plan No. 1.

Employees may participate in the DROP under the following conditions:

- (a) An employee under Plan No. 1 who would be eligible upon termination to receive a retirement benefit may elect to remain in active service and participate in the DROP.

- (b) The employee may elect to participate for a maximum of five years. The period of participation elected shall be known as the DROP period. Only one such election can be made, and such election is irrevocable subject to subsections (l) and (m) of this section.
- (c) The employee must be eligible, but for the decision to remain in active service, to receive a service retirement benefit on the date of election to participate in the DROP and such election shall be made prior to such employee's receipt of any retirement benefit.
- (d) Accumulated, unused sick leave shall increase service, but shall not be used to meet minimum age requirements. Use of sick leave for DROP participation shall reduce the employee's accumulated, unused sick leave by the number of hours utilized for the retirement benefit calculation.
- (e) For an employee with at least thirty years of service, accumulated, unused annual leave shall be cashed in to be added to the employee's final average salary for the service retirement benefit calculation under the DROP. Use of annual leave for the DROP service retirement benefit calculation shall reduce the employee's accumulated, unused annual leave account by the number of hours used for the retirement benefit calculation.
- (f) Beginning the month of the employee's DROP election and continuing only for the elected DROP period, additions to the employee's notational DROP account will consist of:
 - (1) The calculated retirement benefit (net of distributions to any alternate payee under a QDRO);

- (2) Any post-retirement adjustments to be made when appropriate; and
 - (3) Interest at the rate of five percent per year compounded monthly on (1) and (2) above.
- (g) At termination of employment the employee may elect one of three options for the distribution of the DROP account:
 - (1) A lump sum payment of the DROP account; or
 - (2) A qualified plan-to-plan transfer or IRA rollover, or
 - (3) A combination of (1) and (2) above.
- (h) Distribution of the DROP account will be made within ninety days of termination of employment.
- (i) Payment of the retirement benefit will be made to the retired employee following termination of employment.
- (j) Failure to complete the DROP period as a result of the employee's actions (e.g., voluntary resignation or termination with cause), shall result in the loss of accrued interest under subsection (f) of this section.
- (k) Employee contributions to the fund shall continue during the DROP period. In the event the employee does not terminate employment at the end of the DROP period, employee contributions to the fund shall continue until termination of employment.
- (l) This subsection applies after August 29, 2008, to an employee who is not participating in the DROP on August 29, 2008. An employee who elects a DROP period and then chooses to remain in active service beyond that DROP period shall be treated at retirement and termination of employment as if the member had

never participated in the DROP except that sick leave used to increase service, and the annual leave used to increase the employee's final average salary, will not be reinstated. The member's retirement benefit shall be calculated taking into consideration the member's entire period of service and final average salary during that service, but in any event the maximum annual retirement benefit shall not be more than seventy-five percent of final average salary.

- (m) This subsection applies after August 29, 2008, to an employee who is participating in the DROP on August 29, 2008. An employee who has elected a DROP period and then chooses to remain in active service beyond that DROP period (1) shall have his or her DROP account frozen as of the end of the elected DROP period and (2) shall only accrue additional service credit for the service that occurs after the DROP period (using the final average salary as of the commencement of the DROP period), but in any event the maximum annual retirement benefit, net of any applicable post retirement adjustments, shall not be more than seventy-five percent of the final average salary as of the commencement of the DROP period. In the event that the employee had already earned the maximum annual retirement benefit at his or her DROP election date, no additional service credit shall accrue. An employee covered by this subsection (m) may elect to be covered by subsection (l) of this section (in lieu of this subsection (m)) upon the employee's termination of employment.

SECTION 2. Section 2.28.240 of the Code of the City of Wichita, Kansas is amended to read as follows:

Section 2.28.240 Deferred Retirement Option Plan (DROP) for Plan No. 2.

Employees may participate in the DROP under the following conditions:

- (a) An employee under Plan No. 2 who would be eligible upon termination to receive a retirement benefit may elect to remain in active service and participate in the DROP.
- (b) The employee may elect to participate for a maximum of five years. The period of participation elected shall be known as the DROP period. Only one such election can be made, and such election is irrevocable subject to subsections (k) and (l) of this section.
- (c) The employee must be eligible, but for the decision to continue in active service, to receive a service retirement benefit on the date of election to participate in the DROP and such election shall be made prior to such employee's receipt of any retirement benefit.
- (d) Accumulated, unused sick leave shall increase service, but shall not be used to meet minimum age requirements. Use of sick leave for DROP participation shall reduce the employee's accumulated, unused sick leave by the number of hours utilized for the retirement benefit calculation.
- (e) Beginning the month of the employee's DROP election and continuing only for the elected DROP period, additions to the employee's notational DROP account will consist of:
 - (1) The calculated retirement benefit (may be net of distributions to any alternate payee under a QDRO);
 - (2) Any post-retirement adjustments to be made when appropriate; and

- (3) Interest at the rate of five percent per year compounded monthly on (1) and (2) above.
- (f) At termination of employment, the employee may elect one of three options for the distribution of the DROP account:
 - (1) A lump sum payment of the DROP account; or
 - (2) A qualified plan-to-plan transfer or IRA rollover, or
 - (3) A combination of (1) and (2) above.
- (g) Distribution of the DROP account will be made within ninety days of termination of employment.
- (h) Payment of the retirement benefit will be made to the retired employee following termination of employment.
- (i) Failure to complete the DROP period as a result of the employee's actions (e.g., voluntary resignation or termination with cause) would result in the loss of accrued interest under subsection (f) of this section.
- (j) Employee contributions to the fund shall continue during the DROP period. In the event the employee does not terminate employment at the end of the DROP period, employee contributions to the fund shall continue until termination of employment.
- (k) This subsection applies after August 29, 2008, to an employee who is not participating in the DROP on August 29, 2008. An employee who elects a DROP period and then chooses to remain in active service beyond the DROP period shall be treated at retirement and termination of employment as if the member had never participated in DROP except that sick leave used to increase service will

not be reinstated. The member's retirement benefit shall be calculated taking into consideration the member's entire period of service and final average salary during that service, but in any event the maximum annual retirement benefit shall not be more than seventy-five percent of final average salary.

- (l) This subsection applies after August 29, 2008, to an employee who is participating in the DROP on August 29, 2008. An employee who has elected a DROP period and then chooses to remain in active service beyond that DROP period (1) shall have his or her DROP account frozen as of the end of the elected DROP period and (2) shall only accrue additional service credit for the service that occurs after the DROP period (using the final average salary as of the commencement of the DROP period), but in any event the maximum annual retirement benefit, net of any applicable post retirement adjustments, shall not be more than seventy-five percent of the final average salary as of the commencement of the DROP period. In the event that the employee has already earned the maximum annual retirement benefit at his or her DROP election date, no additional service credit shall accrue. An employee covered by this subsection (l) may elect to be covered by subsection (k) of this section (in lieu of this subsection (l)) upon the employee's termination of employment.

SECTION 3. The originals of Sections 2.28.230 and 2.28.240 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day

of August, 2008.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law