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ORDINANCE NO. 018782

AN ORDINANCE AMENDING CHAPTER 2.64 (CITY OF EL PASO EMPLOYEES RETIREMENT TRUST) CONCERNING THE APPOINTMENT OF TRUSTEES, CHANGING THE TERMS OF OFFICE FOR CERTAIN TRUSTEES, CHANGING THE FUND NAME, DEFINES TERMINATION DATE, CHANGING THE TIME TO APPLY FOR A DISABILITY RETIREMENT, PRESCRIBING PROCEDURES FOR FILLING VACANCIES ON THE BOARD, IMPOSING EDUCATIONAL REQUIREMENTS ON TRUSTEES, PROVIDING FOR THE AUTOMATIC REMOVAL OF TRUSTEES AND CLARIFYING THE METHOD FOR BUYING BACK SERVICE CREDIT FOR MEMBERS WHO ARE RE-EMPLOYED

WHEREAS, Section 2.64.080 of Chapter 2.64 entrusts the Board of Trustees of the City Employees' Pension Fund with the task of administering the City Employee's Pension Fund and directing the investment of its assets;

WHEREAS, the Board of Trustees and the City of El Paso believe that certain amendments to Chapter 2.64 are necessary to improve the operation and efficiency of the Pension Fund and its Board of Trustees;

WHEREAS, the Board of Trustees, in the exercise of its fiduciary responsibility, believes that it would be in the best interest of the Pension Fund and the City of El Paso if Chapter 2.64 of the City Code is amended as described below; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO THAT CHAPTER 2.64 BE AMENDED AS FOLLOWS:

a. That Section 2.64.010 of Chapter 2.64 of the El Paso City Code be amended to read as follows:

> **There shall be established by the city a pension fund for both the exclusive benefit of city participants and all participants from any other entity that, with the city's consent, adopts the pension fund and, thereby, becomes an adopting employer of the fund (hereinafter, "other approved employer"). This fund does not include participants who are firefighters or police officers. Such fund shall be known as the City of El Paso Employees Retirement Trust. Further, all references in this chapter to "fund", "plan", "city employees' pension fund", "city employees' pension plan", "pension fund", or "pension plan" shall mean the City of El Paso Employees Retirement Trust. All references to this chapter to participant or fund participant shall mean those persons who participate in the fund pursuant to the provisions of this chapter, and may also be referred to as members of the fund. Additionally, all references in this chapter to "city" shall mean the City of El Paso, Texas.**

b. That Section 2.64.020 of Chapter 2.64 of the El Paso City Code be amended to read as follows:

Such fund shall be administered by a board of trustees comprised of two members of the City Council, two citizens of the city who are not officers or employees of the city and who have resided in the city for a period of at least two years immediately preceding their appointment, four city employees who are qualified to participate in the fund, and one retired city employee receiving pension benefits from the fund.

c. That the first two sentences in section 2.64.030(A) of Chapter 2.64 of the El Paso City Code be amended to read as follows:

The two members of City Council, one of whom may include the mayor, at his or her discretion, shall be appointed by the mayor to serve on the board. The mayor shall also appoint the two citizens who are not officers or employees and the retiree member.

d. That section 2.64.030(B) of Chapter 2.64 of the El Paso City Code be amended to read as follows:

<u>Appointed Trustees</u>. City Council, citizen, or retiree member appointees shall serve for a term of two (2) years. The term of City Council, citizen, or retiree member appointees shall commence on the date of appointment by the mayor.

<u>Elected City Employee Trustees</u>. Commencing in April 2018, City employee trustees shall serve four (4) year terms, with the terms being staggered so that two (2) seats are filled by elections held in odd-numbered years. In order to effectuate the transition to four (4) terms and odd-year elections, the following exceptions will apply: City employee trustees elected in the April 2017 election shall serve a four (4) year term to April 2021, resulting in an increase of one (1) year in the term of these employee trustees. City employee trustees elected in the April 2018 election shall serve a five (5) year term to April 2023, resulting in an increase of one (1) year in the term of these employee trustees. Employee trustees elected in the April 2021 and April 2023 elections, and all employee trustee elections thereafter, shall serve four (4) year terms. The term of the city employee trustees shall commence on the date that the City Clerk posts the results of the election.

For board appointments after April 2018, no City Council, citizen, or retiree member appointee may hold a board position for more than 8 years throughout their lifetime. There shall be no limitation as to the number of years an elected individual may serve on the board.

e. That section 2.64.030(C) of Chapter 2.64 of the El Paso City Code be amended to read as follows:

A member of the board who is not present at four (4) regularly-scheduled board meetings in a calendar year shall be automatically removed from serving as a member of the board.

f. That section 2.64.030 of Chapter 2.64 of the City Code be amended by adding subsection (D) as follows:

All board members shall comply with the education and service requirements of the Texas Pension Review Board and any other official governmental body that regulates the board. A member who fails to comply with such requirements shall be automatically removed as a member of the board.

g. That section 2.64.040 be amended to read as follows:

For appointed trustees, the mayor shall be notified by the board chairperson or pension administrator no less than thirty (30) days prior to the expiration of a term of a need to appoint for a new term, or upon the receipt of a notice of resignation from service by a member. The mayor shall make an appointment within thirty (30) days of the date of term expiration or date of resignation, or the position shall be considered vacant.

A trustee position shall be considered vacant if an appointed or elected trustee has not completed the oath of office procedure within thirty (30) days of the commencement of a term, if a trustee has resigned by duly notifying the board, or if a trustee is removed from the board in accordance with Section 2.64.030(C) or 2.64.030(D) of this Chapter.

For any vacant position, the board shall be authorized to adopt a procedure to fill a vacancy for the remainder of the term at its sole discretion, including, but not limited to, re-appointing a trustee whose seat has become vacant or considering an application for re-appointment from a member removed for excessive absences.

h. That section 2.64.070 be amended to read as follows:

The board shall elect a chairperson and vice-chairperson. The chairperson and vice-chairperson shall each have the same vote as any other member. The chief executive of the fund, who shall be designated by the board of trustees, shall act as secretary to the board.

i. That section 2.64.120(H)(3) be amended to read as follows:

A person entitled to benefits under this section who first becomes a fund participant before September 11, 2011, and subsequently retires and is reemployed by the city, shall receive a monthly pension from the pension fund computed according to the formula set forth in Section 2.64.200 where the total complete years and months, and fractional parts of months, of service are used as a single multiplier to compute his monthly pension and shall include such service rendered before the date of his initial retirement and such service rendered after the date of his re-employment until the date of his second and final retirement; provided, that such person reimburses the pension fund for all pension benefits received during such period of separation from city service in one lump sum payment, together with the interest on such total lump sum payment, computed according to the fund's assumed actuarial interest rate, plus any additional liability to the fund computed based on the actuarial tables approved by city council; provided further, that any such person meets the requisites in subsections 1. and 2. A person who is reemployed on and after September 1, 2011, and reimburses the fund pursuant to this section shall give written notice to pension administration office of his intent to make the reimbursement within ninety days after the date of his rehire. Such a person who fails to timely submit the notice of intent to make the reimbursement or fails to timely make the reimbursement shall become a member of the fund pursuant to the provisions of subsection H.4 below.

j. That section 2.64.120(H)(5) be amended to read as follows:

A person entitled to benefits under this section who first becomes a fund participant on or after September 1, 2011, and subsequently retires and is reemployed by the city, shall receive a monthly pension from the pension fund computed according to the formula set forth in Section 2.64.200 where the total complete years and months, and fractional parts of months, of service are used as a single multiplier to compute his monthly pension and shall include such service rendered before the date of his initial retirement and such service rendered after the date of his reemployment until the date of his second and final retirement; provided, that such person reimburses the pension fund for all pension benefits received during such period of separation from city service in one lump sum payment, together with the interest on such total lump sum payment, computed according to the pension fund's actuarial reimbursement analysis on the date of reimbursement; provided further, that any such person meets the requisites in subsections 1. and 2. Such a person who reimburses the fund pursuant to this section shall give written notice to the pension administration office of his intent to make the reimbursement within thirty days after the date of his rehire, and shall make the reimbursement within ninety days after the date of his rehire.

Such a person who fails to timely submit the notice of intent to make the reimbursement or fails to timely make the reimbursement shall become a new member of the fund pursuant in the same manner as provided in subsection H.4. above. The prior service credit period and any new service credit period(s) for such

participant shall each be administered separately and not combined, and such separate pensions shall be subject to all applicable rules as contained in this chapter regarding each separate pension.

k. That section 2.64.200 be amended by adding subsection (A)(3) as follows:

The phrase "effective termination date" shall mean "the date when a participant separates from service from the city, whether voluntarily or involuntarily, whereby pension contributions may no longer be made for the benefit of the participant by either the participant or the city."

l. That section 2.64.210(A) be amended to read as follows:

Whenever a participant (as limited by Section 2.64.120) shall become so totally and permanently disabled, through no fault of his own, as the result of a job-related injury or cause, as to incapacitate him in the performance of his job with the city or any other job, whether with the city or not, for which one is qualified by training and experience and which does not result in a significant reduction in pay and benefits, and shall make written application therefor, within thirty-days of his Termination date, approved by the board, he shall, although under the retirement age, be entitled to be retired from his employment and to receive a pension in the same amount as specified in Section 2.64.200, the amount of which shall be determined by and based on whether the person was first a fund participant before September 1, 2011, or first a fund participant on or after September 1, 2011. This subsection shall apply only to original applications filed on or after February 4, 1992.

m. That section 2.64.210(B) be amended to read as follows:

Whenever a participant (as limited by Section 2.64.120) shall have completed seven years of pension credited service with the city or other approved employer and shall become so totally and permanently disabled, through no fault of his own, from any cause not related to his job with the city or other approved employer, as to incapacitate him in the performance of his job with the city or any other job, whether with the city or not, for which he is qualified by training and experience and which does not result in a significant reduction in pay and benefits, and shall make written application therefor, within thirty-days of his Termination date, approved by the board of trustees, he shall, although under the retirement age, be entitled to be retired from his employment and to receive a pension in the same amount as specified in Section 2.64.200. If such disability occurs before completion of seven years of pension credited service, the participant so disabled shall be entitled to receive a refund of the amount he paid into the fund, in accordance with Section 2.64.200. This subsection shall apply only to original applications filed on or after February 4, 1992.

n. That section 2.64.210 be amended by adding subsection (G) as follows:

An application for a disability pension under Article 2.64.210 shall be filed within thirty (30) days of the participant's termination date. The phrase "termination date" shall mean the date when a participant separates from service from the city, whether voluntary or involuntary, whereby pension contributions may no longer be made for the benefit of the participant by either the participant or the city."

o. That section 2.64.240(A) be amended by adding subsection (a) as follows:

In lieu of the normal retirement allowance, an employee may elect to have the actuarial equivalent of his retirement applied to a different retirement allowance, payable throughout life in accordance with one of the optional settlements specified in this section. This election shall be made at the time the employee applies for retirement.

p. That section 2.64.260(C)(1)(b) be amended to read as follows:

If there be any interval during which the person was not employed by the city or other approved employer and the person had become entitled to the benefits under the plan but was not retired and had withdrawn his contributions under Section 2.64.220, the person shall only receive credit for the length of previous service for which he repays all withdrawn contributions to the fund plus interest thereon at seven and one-half percent per annum compounded annually. A person who is reemployed on or after September 1, 2011, and exercises the option under this section to repay all withdrawn contributions to the fund shall give written notice to the pension administration office of his intent to make the repayment within thirty (30) days after the date of his rehire, and shall make the repayment within ninety (90) days after the date of his rehire. Such a person who fails to timely submit the notice of intent to make the repayment or fails to timely make the repayment shall become a participant of the fund as applicable to persons first hired on or after September 1, 2011, and be subject to all applicable provisions of this chapter regarding the membership in and entitlement to the benefits under the plan regarding such a separate pension. If such option is exercised, all rights or benefits under the plan which depend upon length of service shall recognize the time of previous employment for which all withdrawn contributions have been made good.

q. That section 2.64.260(C)(2)(b) be amended to read as follows:

If there be any interval during which the person was not employed by the city or other approved employer and the person had become entitled to the benefits under the plan but was not retired and had withdrawn his contributions under Section 2.64.220, the person shall only receive credit for the length of previous service for

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which he repays all withdrawn contributions to the fund plus interest thereon at seven and one-half percent per annum compounded annually. A person who exercises the option under this section to repay all withdrawn contributions to the fund shall give written notice to the pension administration office of his intent to make the repayment within thirty (30) days after the date of his rehire, and shall make the repayment within ninety (90) days after the date of his rehire. A person who fails to timely submit the notice of intent to make the repayment or fails to timely make the repayment shall become a participant of the fund as applicable to persons first hired on or after September 1, 2011, and be subject to all applicable provisions of this chapter regarding the membership in and entitlement to the benefits under the plan that starts from the date of his rehire. If such option is exercised, all rights or benefits under the plan which depend upon length of service shall recognize the time of previous employment for which all withdrawn contributions have been made good.

PASSED AND APPROVED this 17th day of April, 2018.

CITY OF EL PASO

Mayor Dee Margo

ATTEST:

City Clerk Laura D. Prine

APPROVED AS TO FORM:

City Attorney Sylvia Borunda Firth

APPROVED AS TO CONTENT:

BOARD CHAIRMAN Karl C. Rimkus
CITY EMPLOYEES' PENSION FUND

APPROVED AS TO FORM:

BOARD COUNSEL Eduardo Miranda
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APPROVED AS TO FORM:

BOARD COUNSEL Joshua Snider
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