

ORDINANCE NO. 13,661

AN ORDINANCE to amend the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, by repealing Sections 2-301, 2-302, 2-303, 2-304, 2-305 and 2-306, thereof and enacting new Sections 2-301, 2-302, 2-303, 2-304, 2-305 and 2-306, all relating to the deferred compensation plan.

Be It Ordained by the City Council of the City of Des Moines,

Iowa:

Section 1. That the Municipal Code of Des Moines, 1991, adopted by Ordinance No. 11,651, passed April 15, 1991, be and is hereby amended by repealing Sections 2-301, 2-302, 2-303, 2-304, 2-305 and 2-306, thereof and enacting new Sections 2-301, 2-302, 2-303, 2-304, 2-305 and 2-306, all relating to the deferred compensation plan thereof and enacting new Sections, as follows:

ARTICLE II. DEFERRED COMPENSATION PLAN

2-301. CREATION.

A deferred compensation plan is available for eligible city employees in accordance with the provisions of this article and detailed specifications approved by city council roll call number 5379, dated November 24, 1975 and filed with the city clerk, as such plan may be amended from time to time.

2-302. PURPOSE.

The purpose of the deferred compensation plan is to make available to eligible city employees and city officers a deferred compensation plan whereby receipt and taxation of a portion of an employee's or officer's salary may be deferred.

2-303. ELIGIBILITY.

All permanent full-time and part-time employees, permanent full-time and part-time probationary employees and any other employees made eligible pursuant to collective bargaining agreements shall be eligible for participation provided that they enter into an agreement to defer compensation not yet earned pursuant to the provisions and within the limitations of this article.

2-304. DEFERRED COMPENSATION AGREEMENT.

The city manager, or his or her designee, is hereby authorized to enter into agreements with city employees and city officers who may qualify for this plan, whereby the participant may designate a portion of his or her future earnings to be deducted by the city through payroll deduction and placed in an eligible deferred compensation investment product. Such agreements may include, but shall not be limited to, specifications that:

(1) City contributions to a plan may be made as the city council may direct from time to time by resolution or by collective bargaining agreement;

(2) The city may amend the provisions of the plan at any time, provided, however, that no amendment shall affect the rights of participants or their beneficiaries to the receipt of payment of benefits;

(3) The city shall not be responsible for any loss due to the investment or failure of investment of funds and assets in a plan, nor shall the city be required to replace any loss whatsoever which may result from said investments;

(4) All funds and assets, together with interest, accumulations, and increments thereon, in the employee's deferred compensation plan account shall be held in trust for the exclusive benefit of participants and their beneficiaries or as otherwise consistent with the requirements of the Internal Revenue Code.

(5) An agreement to defer compensation not yet earned must have been entered into by the participant before the beginning of the calendar month in which deferral of compensation is to occur.

(6) As to investments governed by section 457 of the Internal Revenue Code, early withdrawal is limited to an unforeseeable severe financial hardship involving either:

(i) a present or imminent financial crisis imposed by a sudden unexpected illness or accident of the participant, participant's spouse, or a dependent of the participant, or

(ii) an unanticipated substantial loss of property due to casualty loss or catastrophic circumstances brought about by events wholly beyond the control of the participant.

(7) Early withdrawal referred to in (6) above is strictly limited by section 457 of the Internal Revenue Code to the amount necessary to meet the emergency. No emergency withdrawal shall be permitted to the extent the hardship is or may be relieved by:

(i) reimbursement or compensation through insurance proceeds or otherwise,

(ii) liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship, or

(iii) cessation of deferrals under the plan.

(8) Contributions by the city salary deferrals by an employee may only be placed in investment products for deferred compensation which meet all applicable legal requirements of the Internal Revenue Code.

2-305. ADMINISTRATION OF PLAN.

The plan shall be administered by the city manager, or his or her designee, who shall oversee and administer the plan and various agreements entered into pursuant to section 2-304 above in a manner reasonably calculated to accomplish the overall objectives of the plan.

2-306. ACCOUNTS.

The accounting and financial records of the deferrals and city contributions shall be maintained in accordance with generally accepted accounting principles.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Carol J. Moser

Assistant City Attorney