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TO: City of Aurora
FROM: Klein, Thorpe & Jenkins, Ltd.
RE: Changes in the Compensation of Elected Officials

August 3, 2016

INCREASE OR DECREASE OF COMPENSATION OF ELECTED OFFICIALS DURING TERM

Background

There are Constitutional and statutory limits and procedures which set forth the rules regarding the compensation, and adjustments to the compensation, of elected officials. The Illinois Constitution establishes the following prohibition on changes to the compensation of elected officials during an existing term:

“SECTION 9. SALARIES AND FEES

...

(b) An increase or decrease in the salary of an elected officer of any unit of local government shall not take effect during the term for which that officer is elected.”

Illinois Constitution, Section 9(b), Article VII, Local Government

There are statutory provisions which further regulate the process for adjusting the compensation of an elected office or offices. Both the Illinois Local Government Officer Compensation Act and the provisions of the Illinois Municipal Code incorporate the prohibitions of the Illinois Constitution, while creating timelines for the implementation of changes in compensation for elected offices. These two statutes prohibit the increase or decrease of the compensation of an elected official during the term of office of any such official. The laws provide that fixing or adjusting the compensation, whether an increase or a decrease, of any elected officials has to be done by a municipality at least 180 days before the beginning of the terms of the officers whose compensation is to be

fixed. The applicable sections of the Illinois Local Government Officer Compensation Act (50 ILCS 145/2), and of the compensation provisions for officers under the Illinois Municipal Code (65 ILCS 5/3.1-50-10) are set forth below:

The Local Government Officer Compensation Act

“Sec. 2. Time of fixing compensation. Notwithstanding any other law to the contrary, the compensation of elected officers of school districts and units of local government, including home rule units, which compensation is to be fixed by that school district or unit of local government, shall be fixed at least 180 days before the beginning of the terms of the officers whose compensation is to be fixed.” 50 ILCS 145/2

Illinois Municipal Code

“Sec. 3.1-50-10. Fixing salaries. ... The salaries that are fixed by ordinance for those officers who hold elective office for a definite term shall neither be increased nor diminished during that term and shall be fixed at least 180 days before the beginning of the terms of the officers whose compensation is to be fixed.” 65 ILCS 5/3.1-50-10

Implementation of the Change in the City

If the City Council determined to makes changes in the compensation to future elected officials of the City, such a decision to make those changes would have to be completed at least 180 days prior to the first regular or special meeting of the City Council in May 2017. Pursuant to the current City Code, an elected member of the City Council takes office in Aurora in May after the municipal election. At Sections 2-36 and 2-56 of Division 2 of Article II of the City Code, it is provided:

Sec. 2-36. - Term of office.

The mayor shall hold office for a term of four (4) years and until his successor is elected and duly qualified. The inauguration of a newly elected mayor shall be at the first regular or special meeting of the city council in May following the election, or the first regular or special meeting of the city council after the city's receipt of the official election results, whichever occurs last, and the term of the mayor shall commence from and after such inauguration.

Sec. 2-56. - Terms of office.

Each alderman shall serve for a term of four (4) years and until his successor is elected and qualified. The inauguration of newly elected aldermen shall be at the first regular or special meeting of the city council in May following the election, or the first regular or special meeting of the city council after the city's receipt of the official election results, whichever occurs last, and the term of the aldermen shall commence from and after such inauguration.

As indicated above, any change in compensation cannot affect any of the present alderman or the mayor, during their current term of office. Further, any change made at least 180 days before the April 2017 election would affect only those alderman who would be up for election at that time, and the seats of those alderman and the mayor

who were elected in April 2015 could not be affected by any change in compensation until the April 2019 election.