

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, ARTICLE III, SECTIONS 2-410, 2-411, 2-413, 2-415, AND 2-419, RELATIVE TO THE FIRE AND POLICE PENSION FUND.

WHEREAS, the Board of Directors of the Fire and Police Pension Fund have recommended to the City Council the adoption of certain changes relating to the Chattanooga Fire and Police Pension Fund, as set forth herein;

WHEREAS, the changes to the Chattanooga Fire and Police Pension Fund adopted herein are not inconsistent with sound actuarial principles, methods, and actuarial assumptions; and

WHEREAS, these changes shall not in any way decrease any vested financial benefits accrued by any participant or beneficiary of the Fire and Police Pension Fund.

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, That Chattanooga City Code, Part II, Chapter 2, Sec. 2-410, Subsection (a)(3) be and is hereby amended by deleting said subsection in its entirety and substituting in lieu thereof the following:

- (a)(3) Except as hereinafter provided, injury or disease sustained by the Pension Fund member while serving in any Armed Forces or as the result of warfare. Notwithstanding the foregoing, in the case of a death or disability occurring on or after January 1, 2007, if a member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code of 1986, as amended, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Fund as if

the member had resumed and then terminated employment on account of death.

SECTION 2. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 2, Sec. 2-411, Subsection (c) be and is hereby amended by deleting said subsection in its entirety and substituting in lieu thereof the following:

- (c) Upon the death of any member employed on November 3, 1992, who is retired under the provisions of this Section, or upon the death of such member prior to retirement, but eligible for benefits under this Section, there shall be paid to said member's beneficiary a death benefit of \$10,000.00, and the benefits under Section 2-418, and the surviving spouse shall be paid the sum of \$500.00 per month until death if said spouse is not a beneficiary under one of the options listed in Section 2-418. Effective January 1, 2013, upon the death of such member who is eligible for benefits under this Section, there shall be paid to said member's beneficiary a death benefit of \$10,000.00, and the benefits, if any, elected by the member under Section 2-418. If the member has not elected any option prior to his or her death, a benefit shall be payable to the deceased's surviving spouse, if any, as though he or she had elected Option D., Section 2-418. Notwithstanding the foregoing, if a member who is employed on November 3, 1992, but is not eligible for benefits under this Section on January 1, 2013, or is employed after November 3, 1992, shall die before retirement and after reaching the conditions to be eligible for benefits under this Section or shall die after retirement, there shall be paid to his or her beneficiary or beneficiaries the benefit of \$10,000.00 and such benefits elected under Section 2-418.

SECTION 3. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 2, Sec. 2-411 be and hereby is amended by adding a new Subsection (f) thereto, as follows:

- (f) For years beginning after December 31, 2008, (i) a member receiving a differential wage payment, as defined by Section 3401(h)(2) of the Internal Revenue Code of 1986, as amended, shall be treated as an employee of the City of Chattanooga, (ii) the differential wage payment shall be treated as compensation, and (iii) the Pension Fund shall

not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code of 1986, as amended, by reason of any contribution or benefit which is based on the differential wage payment.

SECTION 4. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 2, Sec. 2-413 be and is hereby amended by deleting said section in its entirety and substituting in lieu thereof the following:

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, if the employment of a member is terminated for any reason, or if the member is on leave without pay for a period in excess of ninety (90) consecutive days, said member shall be entitled to receive at the time of said termination or leave 100% of whatever sums he or she contributed to the Pension Fund. If such member is subsequently reemployed in the Fire or Police Department, he or she may at the time of reemployment reimburse the Pension Fund to the full extent of the amount he or she received from the Pension Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial evaluation of the Pension Fund during their periods of absence from the date of said withdrawal to the date of reemployment. Any reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may not be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.

SECTION 5. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 2, Section 2-415 be and is hereby amended by deleting said section in its entirety and substituting in lieu thereof the following:

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, a member who has completed ten (10) or more years of active service at the time of his or her termination of employment, or at the time he or she has been on leave without pay for a period in excess of ninety (90) consecutive days, shall have the right to either (1) or (2) as follows:

- (1) A right to receive a 100% refund of whatever sums he or she contributed to the Pension Fund. If such member is subsequently reemployed in the Fire or Police Department, he or she may at the time of reemployment reimburse the Pension Fund to the full extent of the amount he or she received from the Pension Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial valuation of the Pension Fund from the date of withdrawal to the date of reemployment. Any reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may not be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.
- (2) A right to leave his or her contribution in the Pension Fund and be eligible to receive after reaching fifty-five (55) years of age a monthly deferred vested retirement benefit equal to 2.4% of his or her Average Base Salary as computed over the highest three (3) years of pay during the member's years of service for each year of active service, subject to a maximum of twenty-five (25) years.

If the death of such member occurs prior to commencement of the payment of any benefits under this Section, a refund of whatever sums such member contributed to the Pension Fund shall be paid to the member's estate, and his or her beneficiary shall be paid a death benefit sum of \$10,000.00. If death occurs following the commencement of eligibility to receive benefits under this Section, benefits shall be payable according to the terms elected under Section 2-418.

SECTION 6. BE IT FURTHER ORDAINED, That Chattanooga City Code, Part II, Chapter 2, Section 2-419, Subsection (7) be and is hereby amended by deleting said section in its entirety and substituting in lieu thereof the following:

- (7) The term "Surviving Spouse" shall mean the spouse who is married to a member at the member's death and who has been continuously married to the member for a period of at least eighteen (18) months prior to the date of the member's death. Effective April 1, 2013, the term "Surviving Spouse" shall mean any spouse who meets the requirements of the preceding sentence and who is married to a member on April 1, 2013, or, the spouse who is

married to a member at the member's retirement and who has been continuously married to the member for a period of at least eighteen (18) months prior to the date of the member's death and who is married to the member upon his or her death

SECTION 7. BE IT FURTHER ORDAINED, That this Ordinance shall take effect immediately after its passage.

PASSED on Second and Final Reading

_____, 2012.

CHAIRPERSON

APPROVED: _____ DISAPPROVED: _____

DATE _____, 2012

VLM/mms

MAYOR